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THE CHILD LABOR AMENDMENT

THE INTERSCHOLASTIC LEAGUE BUREAU

Extension Division

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The benefits of education and of useful knowledge, generally diffused through a community, are essential to the preservation of a free government.

Sam Houston

Cultivated mind is the guardian genius of democracy. . . . It is the only dictator that freemen acknowledge and the only security that freemen desire.

Mirabeau B. Lamar

FOREWORD

In accordance with its usual practice, the Interscholastic League is issuing this bulletin for the help and convenience of students who wish to prepare themselves for entry into the debating contests of the League. Each member school is entitled to two free copies of this bulletin (upon request) and may obtain additional copies from the State Office of the League, University Station, Austin, for 20 cents per copy. The Extension Loan Library will furnish any school official who applies for the same a package library on the Child Labor Amendment, which he may keep for a period of two weeks. The League will inaugurate an information service on the Child Labor Amendment, which will undertake to furnish statistical information touching upon the proposed legislation, cite and quote authorities in connection with various points at issue; in short, place at the disposal of the debater or debating coach the resources of the University of Texas Library. A small charge for information furnished will have to be made to cover the actual cost of supporting this service.

The present bulletin was prepared by Marion A. Olson.

The League expects, also, to issue a pamphlet entitled "How to Judge a Debate" for distribution to individuals who expect to serve as judges in Interscholastic League debates. Judges will be advised in this pamphlet to grade down the memorized speech, especially if it seems too mature for the individual delivering it, and will be directed, other things being equal, to favor the team that gives evidence of an ability to meet its opponents' arguments in intelligent, well-informed extemporaneous rebuttal over a team whose rebuttal seems cut and dried. The following footnote, which occurs on page 60 of the University of Oklahoma Bulletin, "Students' Manual Public Discussion and Debate," should be pondered by every debating coach:

"The purpose of practice debating is to teach young men [and young women] to think, and to speak their thoughts effectively. Debaters who are so trained should be given precedence over those who recite vigorously memorized speeches. The college or high-school debater who declaims, in all probability has not written the speech himself. Too much help by the coaches [and commercial bureaus] is doing much to bring disrepute upon all debating. If judges have the courage to distinguish between declamation and speaking from the floor, they can do much to raise the standard of school debating."

ROY BEDICHEK,

Chief, Interscholastic League Bureau,
Extension Division, University of Texas.

"The gods have given us speech--the power which has civilized human life; and shall we not strive to make the best of it?"

ISOCRATES.

"Remark likewise two things: that such prize arguings were ever on superficial debatable questions; and then that they were argued generally by the fair laws of battle and logic-fence, by one cunning in the same. If their purpose was excusable, their effect was harmless, perhaps beneficial: that of taming noisy mediocrity, and showing it another side of a debatable matter; to see both sides of which was, for the first time, to see the truth of it."

CARLYLE.

BRIEF

Resolved, That the Child Labor Amendment to the Federal Constitution Should be Adopted.

INTRODUCTION

I. The question of the Federal Child Labor Amendment is of particular interest and importance to the American people at the present time, for

A. There has been constant agitation for Federal Child Labor legislation since 1906, at which time the first bill was was introduced into Congress.

B. This agitation culminated in the Federal Child Labor laws of 1916 and 1919.

C. Upon these laws being declared unconstitutional, the people were brought face to face with the fact that Congress, under the Constitution, does not now have the power to legislate in regard to Child Labor.

D. Agitation immediately began for an amendment to the Constitution, and this agitation resulted in the Child Labor Amendment, which was submitted to the states and Senate, for ratification.

II. An intelligent discussion of the question involves the acceptance of the following definitions:

A. By the Child Labor Amendment, we mean the amendment which reads as follows:

Section 1. The Congress shall have power to limit, regulate, and prohibit the labor of persons under 18 years of age.

Section 2. The power of the several states is unimpaired by this article, except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by Congress.

B. By "adoption" we mean the ratification of the amendment by the number of states necessary to place the amendment in the Constitution.

III. Admitted matter.

A. Both sides will admit that children should not be employed in any manner detrimental to their physical, mental, or moral well-being.

B. Both sides, therefore, will admit that there is need for legislation regulating Child Labor.

C. The clash of opinion will not be over the moral or economic need for Child Labor Legislation, but over the best method of regulation.

IV. The discussion is based upon the following issues:

A. Does regulation of Child Labor come properly within the jurisdiction of the Federal Government?

B. Have the states in the past, and can the states in the future, satisfactorily regulate Child Labor?

C. Does the proposed amendment give Congress unreasonable power?

D. Will Federal legislation effectively solve the Child Labor Problem?

AFFIRMATIVE BRIEF

DISCUSSION

I. The states have not and can not satisfactorily regulate Child Labor, for

A. The states in the past have not legislated in any degree consistent with the demand of Child Labor Conditions, for

1. Standards are today low in many states, for

a. Nine states do not prohibit all children under 14 from working in both factories and stores.

b. Nineteen states do not make physical fitness a condition for employment.

c. Eleven states allow children under 16 to work nine to eleven hours a day.

d. Thirty-nine states do not prohibit children 14 to 16 from working on railways.

e. Thirty-four states do not prohibit children 14 to 16 from working around heavy explosives.

f. Nineteen states do not prohibit children 14 to 16 from wiping and oiling heavy machinery.

g. Only thirteen states come up to the Federal standard in all respects.

2. Laws that have been passed have been riddled with exemptions and exceptions, for

a. Poverty exemption is often granted.

b. Administrative machinery is weak and ineffective.

c. Inspectors are limited and poorly paid.

d. A great deal of the territory is never visited by the State inspectors.

e. The State courts do not punish the violators of the Child Labor laws.

f. In many states work permits are issued illegally.

B. The number of children gainfully employed today, testifies that the states are not handling the problem, for

1. According to the Federal census of 1920, 1,069,858 children between the ages of 10 and 15 are gainfully employed in the United States.

2. Of these children, 378,063 are between the ages of 10 and 13.

3. One out of every twelve children in the country is gainfully employed today.
4. In Mississippi, Alabama, South Carolina, and Georgia one-fourth of the children between 10 and 15 are gainfully employed.
5. Children 4 and 5 years of age are employed in the cotton and beet fields, and in tenement work in New England.
6. Young children work late at night making flowers and laces, thus straining their eyes and blistering their hands.
7. Recent investigation by the Children's Bureau indicates that the employment of Child Labor is on the increase.

C. Child labor is essentially an interstate problem, for
1. Migratory families carry their children from State to State to work.
2. Manufacturers send their raw material into states with low Child Labor standards and have children put out the finished product.
3. Children work in their own homes, and avoid the State Child Labor laws.

II. Regulation of Child Labor comes properly within the jurisdiction of the Federal Government, for

A. The Federal Government should care for problems that affect the nation as a whole, for
1. That was the intention of the framers of the Constitution.
2. It is consistent with our ideal of government.
3. Our justices and statesmen hold this opinion.

B. Child Labor is a national problem for
1. Conditions which exist all over the United States are of vital concern to the nation as a whole.
2. Competition between states prevents them from passing high standard laws, for
   a. Prohibition of child labor may mean the building up of industry in a neighboring State.
   b. States are unwilling to sacrifice their industrial advantages accruing from Child Labor unless the other states sacrifice them likewise.
3. State laws are easily evaded, for
   a. Employers can send piece work across State lines.
4. A Federal law is the only means of setting a uniform minimum standard, for

a. The conditions pointed out above prevent joint State action.
b. Federal laws and standards are wholesomely respected.

5. The Federal Government should have the power to see that those persons to whom it gives the power to cross State lines freely, should be fit to cross those State lines.

C. The men who wrote the Constitution provided for a change from time to time to meet new conditions, for
1. They knew that conditions would change, that new conditions would arise.
2. When the Constitution was written there was no Child Labor problem.
3. The Child Labor problem, a national problem, demands an amendment to the Constitution.

III. The proposed amendment does not give Congress unreasonable power.

A. It does not place any power in Congress that might be misconstrued or abused, for
1. Every amendment to the Constitution is framed in general terms, for
a. An amendment does not legislate in itself.
b. It gives a general power to Congress to legislate specifically.
2. The 18-year limit is not too high, for
a. It was put in the amendment to give Congress power to care for children in some industries in which it is dangerous for them to work under the age of 18.
b. The framers of the amendment did not intend that no children under 18 shuold be permitted to work.
3. The states now possess much more power than the amendment will give Congress, for
a. Some states have already passed laws prohibiting certain kinds of labor to children under 18.
b. A few states have prohibited certain kinds of labor for persons under 21.
4. Congress has wisely used its power in the past, for
a. Congress has not used its power contrary to the wishes or interest of the people, for
(1). Under the power of taxtaion, Congress could tax away the individual's entire wealth.

(2). Under the power of making treaties with a foreign nation, Congress could cede any State to a foreign nation.

(3). No one has feared the use of these powers in any abusive manner.

B. There are checks on Congress which would prevent its passing any law not consistent with the wishes of the people, for

1. The representatives are elected every two years.
2. There is the presidential veto.
3. The referendum and recall might be used.
4. The Supreme Court will see that no unconstitutional laws are put upon the statute books.

IV. Federal legislation will effectively handle the Child Labor problem, for

A. Past experience has shown that Federal legislation is effective and successful, for

1. Two Federal laws were in effect from 1917 to 1922.
2. The experience of these laws was satisfactory, for
   a. There was no conflict between State and Federal authority, for
      (1). Every State gladly coöperated with the Federal Government.
      (2). State labor officials were commissioned, in many cases, to enforce the Federal law.
      (3). Child Labor was appreciably reduced, for
         (a). The Association of Government Labor Officials passed resolutions to the effect that the Federal law brought about a reduction in the number of employed children, and that it made State enforcement easier and more effective.
         (b). Census return for the time the laws were in force shows an appreciable reduction.
3. The expense of enforcing the Federal laws was relatively small, for
   a. The cost of enforcing the first law for nine months was $111,000.
   b. The cost of enforcing both laws was $150,000 a year.

4. The Federal laws stimulated State Child Labor legislation, for
   a. The greatest advance in State labor legislation in the history of the country came during this period, for
      (1). A large number of the states passed and strengthened minimum wage laws.
      (2). Nine states passed an eight-hour day law for children under 16.
      (3). Twenty-one states put a 16-year age minimum on employment in mines and quarries.
      (4). A number of states passed compulsory school attendance laws.
      (5). Part-time school attendance for employed children was provided in many states.
5. The Federal government is more capable of caring for the situation, for
   a. A Federal law will be more respected than a State Child Labor law.
   b. Federal legislation will more quickly and more effectively solve a national problem.
   c. The Federal Government can set a standard below which the states can not fall.
   d. The Federal Government can efficiently enforce a nation-wide Child Labor law.

CONCLUSION

The affirmative has established its case, by showing that:

I. The states have not and can not satisfactorily regulate child labor, for
   A. The states in the past have not legislated in any degree consistent with the demand of Child Labor conditions.
   B. The number of children gainfully employed today testifies that the states are not satisfactorily regulating Child Labor.
   C. Child Labor is essentially an interstate problem.

II. Regulation of Child Labor comes properly within the jurisdiction of the Federal Government, for
   A. The Federal Government should care for problems that affect the nation as a whole.
   B. Child Labor is a national problem.

C. The framers of the Constitution provided for its change from time to time.

III. The proposed amendment does not give Congress unreasonable power.

A. It does not place any power in Congress that might be misconstrued or abused.

B. There are checks on Congress which would prevent its passing any law not consistent with the wishes of the people.

IV. Federal legislation will effectively handle the Child Labor prom-lem, for

A. Past experience has shown that Federal legislation is effective and successful.

NEGATIVE BRIEF

DISCUSSION

I. The states have regulated and can regulate Child Labor satisfactorily, for

A. There has been a great advance in State legislation in recent years, for

1. State standards have been greatly raised since 1910, for

a. Forty-six states prohibit certain kinds of child labor under 18 years of age.

b. Thirty-six states have some regulation of employment of persons under 21 in certain occupations.

c. All but seven states prohibit night work for children under 16.

d. All but sixteen states provide a maximum eight-hour working day for children under 16.

e. Since 1910, twenty-one states have passed a minimum age law of 16 years for work in mines and quarries.

f. Improvements have been made in compulsory school attendance.

g. There are only five states that do not have a minimum age law of 14 in factories and canneries.

h. At the present time State standards are almost as high as the Federal standard, and in many cases they excell the Federal standard.

i. The greatest increase came solely from State initiative before Federal law was passed.

2. State standards are still being raised through State action for

a. A number of the legislatures meeting in 1923 and 1924 raised their child-labor standards.

b. Texas raised its child-labor standards at the recent session.

B. The extent of child labor is greatly exaggerated in the United States today, for

1. There are not as many children gainfully employed as reports indicate, for

a. Out of the census report of 1920, 647,309 children, of the 1,060,858 between the ages of

10 and 15 reported gainfully employed, were working in agriculture, forestry, or animal husbandry.

b. Eighty-eight per cent of these children were helping their parents on the home farm.

c. Only 17.5 per cent of these children, or 185,337 were employed in manufacturing industries.

d. Only 10,000 children between the ages of 10 and 13 were employed in manufacturing industries.

2. Since 1910 Child Labor in the United States has been greatly reduced, for

a. While the population between the ages of 10 and 15 increased 15.5 per cent from 1910 to 1920, the number of working children between these ages decreased 46.7 per cent; in agricultural employment the number decreased 54.8 per cent.

b. In 1910 the proportion of children working was 18.4 per cent; in 1920 the proportion was 8.5 per cent.

c. The decrease in the states from 1910 to 1920 ranged from 40 per cent to 60 per cent, with the exception of five states.

3. Recent reports indicate further reduction in Child Labor, for

a. Reports gathered from industrial cities indicate a falling off in Child Labor in 1924 over 1923.

C. The states are capable of caring for their children, for

1. Their interest in the welfare of children is awakened, for

a. Recent legislation in the states has shown this.

2. They possess all the power necessary to legislate for protection of working children.

3. Experience has shown that State laws can effectively handle the problem, for

a. Effective enforcement is possible.

b. Many states maintain high child-labor standards through their State laws.

II. Regulation of Child Labor does not come properly within the jurisdiction of the Federal Government, for

A. Child Labor is a local problem, for

1. Conditions vary in different parts of the country, for

a. Different characteristics of some states alter the Child Labor problem.

B. It was the intention of the framers of the Constitution that local and State problems should be handled by the State governments, for
   1. This intention is specifically stated in the delegation of powers in the Constitution.
   2. The Tenth Amendment states that "The powers not delegated to the United States by the Constitution nor prohibited by it to the states, are reserved to the states respectively or to the people."
   3. The people have consistently upheld this intention by their hesitancy in bestowing new power in the Federal government.

C. The states will cope successfully with the problem, for
   1. Improvement in State laws have already been pointed out.
   2. Public opinion is forcing the states to legislate for the protection of the children.

D. There is no need for Federal action in a field that is being cared for by the states, and can be cared for in the future by them, for
   1. All unnecessary legislation by the Federal government should be avoided, for
      a. Federal interference makes the problem more difficult to solve, since it brings about a conflict in authority.

III. The proposed amendment gives Congress unreasonable power.

A. It places too much power in Congress, for
   1. It gives Congress absolute control over persons under 18 years of age, for
      a. It gives control over "labor" and not over "employment."
      b. It allows Congress to regulate and limit the labor of children.
      c. Under the amendment Congress can legislate so as to control every action of every person under 18 years of age.

B. There is at present too great a tendency toward centralization, for
   1. Everyone who wants a reform takes the matter to National Congress.
   2. It is inconsistent with our ideal of government, for
      a. The secret of our success in government lies in the balance of power between the State and Federal governments.

3. Continued centralization will result in a radical change in our form of government, for
   a. It will lay open the way for complete federalization, gradually destroying the power of the states.

C. We have no assurance that Congress will wisely use the power the amendment will place in it, for
   1. Promises mean little in regard to legislation, for
      a. Promises made willingly in order to secure a change are seldom strictly kept.
   2. Congress, if the amendment is ratified, may prohibit the employment of all persons under 18 years of age, for many are advocating such a law at the present time.
   3. We do not know the nature of the law that will be passed, but we can only conjecture what it will be.
   4. Any law giving the Federal Government control over the actions of children will be an entering wedge for communism, for
      a. Some of the advocates of the Child Labor amendment are communists.
      b. Many of the advocates believe the Federal Government should care for the education and training of the child.
      c. Under communism the Federal Government would rear and train the children of the nation, thus breaking up the home.

IV. Federal legislation will not effectively solve the Child Labor problem, for

A. A Federal law would require a large and efficient organization for effective enforcement, for
   1. The magnitude of the enforcement task could be met only by a tremendous organization, for
      a. Federal inspectors would have to keep check on factories and industries all over the coun-country.
      b. Federal officials would virtually have to keep a record of every child in the country.

B. The expense of enforcement would be prohibitive, for
   1. Reports show the expenditures of the Children's Bureau and the Department of Labor have been constantly increasing.
   2. The necessary large organization would require tremendous funds for salaries, traveling expenses, keeping necessary records.

C. There would be lack of coöperation between the State and Federal governments that would make enforcement impossible, for
   1. The people will not respect Federal laws which they do not want, for
      a. This has been shown the past, for
         (1) New York refused to respect the Volsetad act, and as a result the Federal law could not be enforced.
   2. The only real reform must come from within, for
      a. The people must feel the need for reform and must make their own reforms locally before they are effective.
      b. People will not accept willingly reform forced upon them by an outside force or agency.
      c. People must be educated up to a standard before they can live up to that standard.

D. The only way to really solve the Child Labor problem is through action in the states, for
   1. Child labor is essentially a State problem.
   2. Evil conditions are not widespread enough to demand Federal action, for
      a. Only a few states have standards so low that they would be affected by Federal laws.
   3. It would be unfair to force a Federal law upon every State simply to benefit a few states, for
      a. The reform in the backward states could be secured more easily by concentrating the campaign in those states.
   4. Reform secured in the states themselves will be of more vital interest to the people.
   5. Enforcement of State laws is easier, for
      a. The State officials are in closer touch with actual conditions.
      b. They have a selfish pride in maintaining their standards and in protecting their children.

CONCLUSION

The negative has established its case by showing that:

I. The states have regulated and can regulate the Child Labor problem satisfactorily, for
   A. There has been a great advance in State legislation in recent years.

B. Child Labor is greatly exaggerated in the United States today.

C. The states are capable of caring for their children.

II. Regulation of Child Labor does not come properly within the jurisdiction of the Federal Government, for

A. Child Labor is a local problem.

B. It was the intention of the framers of the Constitution that local and State problems should be handled by the State governments.

C. The states are already caring for the problem.

D. There is no need for Federal action in a field that is being cared for by the states and can be cared for in the future by them.

III. The proposed amendment is not safe, for

A. It places too much power in Congress.

B. There is at present too great a tendency toward centralization.

C. This centralization is dangerous.

D. We have no assurance that Congress will wisely use the power the amendment will place in it.

IV. Federal legislation will not effectively solve the Child Labor problem.

A. A Federal law will require a large and efficient organization for effective enforcement.

B. The expense of enforcement would be prohibitive.

C. There would be lack of coöperation between the State and Federal governments that would make enforcement impossible.

D. The only way to really solve the Child Labor problem is through action in the states.

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GENERAL INFORMATION CONCERNING THE CHILD LABOR AMENDMENT

THE AMENDMENT

SECTION 1. The Congress shall have power to limit, regulate, and prohibit the labor of persons under 18 years of age.

SEC. 2. The power of the several States is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by Congress.

THE HISTORY OF CHILD LABOR LAWS

BY GRACE ABBOTT

Chief of the Children's Bureau

From *The Woman Citizen* for December 27, 1924.

Beginning about a hundred years ago, legislative measures aimed to protect children from exploitation as cheap labor have followed, somewhat slowly, the industrial development of the country, and are now found in varying degrees of effectiveness in practically every State. The demand for universal education and the recital of the evils of child labor by early labor leaders and social refermers brought the first legislative efforts to reduce the employment of children. A beginning in such legislation had been made in the New England States, New Jersey, Pennsylvania, and Ohio before 1860, but the greatest progress was made during the latter part of the Nineteenth and the early part of the Twentieth Century.

In spite of great diversities in the child labor laws of our forty-eight states, the developing tendencies are clear. In general, the laws set up an age, an educational and a physical standard which a child must attain before he can be employed in a specified list of occuptions; they regulate the hours during which he may work during the first few years of employment and prohibit him from certain hazardous occupations. But these laws vary so in the occupations to which they extend, in the exceptions and exemptions which are made in the age, hour, education, and physical standards, that they fit together like the pieces of a crazy quilt, and uneven enforcement adds to the inequality of protection.

As public recognition of the widespread and harmful effects of child labor became more and more general, this great diversity in the child labor laws of the different states and the difficulty of raising standards in one State because of industrial competition with states

having lower standards gave rise to the movement for establishing a minimum standard through Federal legislation.

Perhaps the most important of the reasons brought forward for resorting to National legislation in this field were: (1) The slow progress made in the protection of children in states in which an industry was locally so powerful as to prevent the passage of a reasonable child labor law or the enforcement of one after it was passed; (2) conscientious consumers objected to the products of child labor becoming articles of commerce; (3) manufacturers objected to the competition of those who relied upon the low wages of children as the basis of their profits; (4) industrial districts are not confined by State lines. Children who live in one State work in another and manufacturers have found it possible to dodge behind State laws in giving out tenement homework in a neighboring State. States, therefore, found themselves unable to protect either the children, the consumers, or the manufacturers.

This discussion reached Congress in 1906, when Senator Beveridge of Indiana and Representative Parsons of New York introduced bills "to prevent the employment of children in factories and mines," and Senator Lodge of Massachusetts sponsored one "to prohibit the employment of children in the manufacture or production of articles intended for interstate commerce." Between 1906 and 1916, when the first Federal child labor law was passed, bills for this purpose were introduced in every Congress except one, by Senators and Representatives from different parts of the country.

Most of the measures suggested were for Federal laws, as it was believed that Congress had constitutional authority to meet this National need through some one of its general grants of power. But there were also proposals for constitutional amendments. In 1914 Representative Rogers of Massachusetts proposed an amendment giving Congress power to regulate the employment of persons under 21 years of age and of women.

On September 1, 1916, the so-called Keating-Owen bill, sponsored by Representative Keating of Colorado and Senator Owen of Oklahoma and urged by President Wilson, became a law. Based on the power of Congress to regulate interstate and foreign commerce, this act closed the channels of interstate and foreign commerce to the products of child labor. It was to go into effect September 1, 1917.

The measure had met with opposition organized and led by representatives of the southern textile industries, and as soon as it was passed steps were taken to contest its constitutionality. On August 31, 1917, on the ground that the law was not a valid exercise of the power of Congress to regulate interstate commerce, an injunction was granted by the United States District Judge of the Western District of North Carolina enjoining the United States Attorney of that district from enforcing the act. The injunction was nominally sought by

John Dagenhart, father of two children affected by the act, and it enjoined the Fidelity Manufacturing Company, of Charlotte, N.C., from dismissing John Dagenhart, who was under 14 years of age, and from curtailing the hours of employment of Reuben Dagenhart, who was between 14 and 16 years of age.

This injunction applied only to the Western Judicial District of North Carolina. An appeal was taken by the Government to the United States Supreme Court and, pending a decision by that court, the act was enforced in other parts of the country. It was administered by the Children's Bureau of the United States Department of Labor, under a system of coöperation between the Federal and State labor officials. The basis for this coöperative functioning was laid in the act itself, which made it possible to accept for the purposes of the Federal act the certificates of age or work permits issued under State authority.

On June 3, 1918, after the act had been in effect nine months and three days, the Supreme Court sustained the decision of the North Carolina court and declared the law unconstitutional by a vote of 5 to 4.

Congress next sought to use its taxing power for the protection of children. On November 15, 1918, Senator Pomerene of Ohio introduced as an amendment to the Revenue Act a provision placing a prohibitive tax (10 per cent) upon the annual net profits of establishments violating the standards set up by the previous child labor law. This measure, passed February 24, 1919, became the so-called "Child Labor Tax Act" and went into effect on April 25, 1919.

The opponents of the act again contested its constitutionality, and on May 15, 1922, the Supreme Court, this time by a vote of 8 to 1, declared the law unconstitutional, on the ground that it was not a legitimate exercise of the taxing power of Congress.

Inasmuch as these two attempts of the Federal Government to extend its protection to child laborers were declared unconstitutional by the Supreme Court—in both cases without any reference to the merits of the law—President Harding and President Coolidge urged upon Congress the necessity of giving to Congress through a constitutional amendment the power to legislate in this field.

Joint resolution proposing amendments were promptly introduced in both House and Senate. In the Senate, Senators Lodge of Massachusetts, Walsh of Montana, Shortridge and Johnson of California, McCormick of Illinois, and a number of others proposed amendments; in the House of Representatives, Foster of Ohio, Johnson of Washington, Taylor of Colorado, Cooper of Wisconsin, Perlman of New York, and some nineteen other Congressmen from the North and West sponsored amendments.

The states have had over two years in which to show to what extent they might be expected to supply, through their own legislative measures, the need which the Fedaral law had filled. Since the last

law was declared unconstitutional the Legislature of every State has held at least one regular session, but, although some advances were made, not one of the thirty-five states whose child labor standards fell below those fixed by the former Federal laws has brought its laws up to that standard in every particular. Clearly, the only recourse is an amendment giving Congress power to act.

During the entire period of agitation for Federal action in this field it has not been urged that the power of the Federal Government should be exclusive. Both the first and second Federal child labor laws sought only a minimum National standard. State laws that were higher were still operative and were enforced by State machinery. Only in a relatively few communities was Federal enforcing machinery necessary. State officials charged with the enforcement of State child labor laws very generally testify that the Federal act increased the respect for the State laws. Instead of discouraging, the Federal laws stimulated the sense of local responsibility for the children of the State. The proposed amendment does not present a choice between alternatives of State and Federal action, but offers a possibility of coöperation between the State and Federal governments in protecting the children, who belong to both the State and the Nation.

Federal coöperation of this kind is not a new thing. In recent years a number of measures—notably the Federal Pure Food and Drug Act, the Harrison Anti-Narcotic Act, and the White Slave Law—which have provided for Federal assistance in solving problems once thought purely local, but now grown national in scope, have been passed by Congress and have been satisfactorily enforced.

Congress has already shown what kind of child labor laws it would pass because it has twice passed laws in the belief that it had the power the amendment would give it. State and Federal officials have proved that they can work together effectively to enforce State and Federal child labor standards. We know what was the cost to the people of the administration of a Federal law—less than $150,000 annually.

The question then is, shall we make it possible to extend the Nation's aid to the Nation's children?

THE DECISION OF THE UNITED STATES SUPREME COURT WHICH DECLARED THE "FIRST CHILD LABOR LAW" UNCONSTITUTIONAL

(The opinion of the Court was delivered by Mr. Justice Day. Mr. Chief Justice White, Mr. Justice Van Devanter, Mr. Justice Pitney, and Mr. Justice McReynolds concurring. The dissenting opinion filed by Mr. Justice Holmes, Mr. Justice McKenna, Mr. Justice Brandeis, and Mr. Justice Clark concurring.

From *Congressional Digest*, February, 1923.

THE CASE

Argued April 15, 16, 1918. Decided June 3, 1918.

Hammer, United States Attorney for the Western District of North Carolina v. *Dagenhart et al.* Appeal from the District Court of the United States for the Western District of North Carolina.

A bill was filed in the United States District Court for the Western District of North Carolina by a father in his own behalf and as next friend of his two minor sons, one under the age of 14 years and the other between the ages of 14 and 16 years, employees in a cotton mill at Charlotte, N.C., to enjoin the enforcement of the act of Congress intended to prevent interstate commerce in the products of child labor. Act of September 1, 1916, c. 432, 39 Stat. 675.

The district court held the act unconstitutional and entered a decree enjoining its enforcement. This appeal brings the case to the Supreme Court.

THE COMPLAINT AGAINST THE LAW

The attack upon the act rests upon three propositions:

First. It is not a regulation of interstate and foreign commerce.

Second. It contravenes the Tenth Amendment to the Constitution.

Third. It conflicts with the Fifth Amendment to the Constitution.

THE DEFENSE OF THE LAW

The power essential to the passage of this act, the Government contends, is found in the commerce clause of the Constitution, which authorizes Congress to regulate commerce with foreign nations and among the States.

THE HOLDING OF THE SUPREME COURT SUSTAINING THE JUDGMENT OF THE LOWER COURT

Held unconstitutional as exceeding the commerce power of Congress and invading the powers reserved to the States.

The power to regulate interstate commerce is the power to prescribe the rule by which the commerce is to be governed; in other words, to control the means by which it is carried on.

The court has never sustained a right to exclude save in cases where the character of the particular thing excluded was such as to bring them peculiarly within the governmental authority of the State or Nation and render their exclusion, in effect, but a regulation of interstate transportation, necessary to prevent the accomplishment through that means of the evils inherent in them.

The manufacture of goods is not commerce, nor do the facts that they are intended for, and are afterwards shipped in, interstate commerce make their production a part of that commerce subject to the control of Congress.

The power to regulate interstate commerce was not intended as a means of enabling Confress to equalize the economic conditions in the States for the prevention of unfair competition among them, by

forbidding the interstate transportation of goods made under conditions which Congress deems productive of unfairness.

It was not intended as an authority to Congress to control the States in the exercise of their police power over local trade and manufacture, always existing and expressly reserved to them by the Tenth Amendment.

Affirmed.

WHO IS FOR? WHO AGAINST?

By Ethel M. Smith
Legislative Secretary, National Women's Trade Union League

The line-up for and against the Child Labor Amendment follows certain well-recognized cleavages of the public mind and thought, as would be expected where a social and economic issue is involved. Allowing, as always, for individual exceptions, the lines fall generally thus:

For the Amendment

Socially-minded groups and individuals support the Child Labor Amendment. There are at least twenty-six national organizations of such character in the list of supporters, and they may be further classified as church organizations, civic and social organizations, and labor organizations. Nineteen of them are women's organizations. The combined membership of the organized support for the amendment runs into many millions of men and women, and these organizations are maintained by membership dues and voluntary contributions. They operate largely through committees of volunteer workers, and have but small paid staffs and small headquarters. The list includes:

American Association of University Women,
American Federation of Labor,
American Federation of Teachers,
American Home Economics Association,
American Nurses' Association,
Federal Council of the Churches of Christ in America, Commission on the Church and Social Service,
General Federation of Women's Clubs,
Girls' Friendly Society in America,
Ladies of the Maccabees,
Medical Women's National Association,
National Child Labor Committee,
National Consumers' League,
National Council of Catholic Women,
National Council of Jewish Women,
National Council of Women,

National Congress of Parents and Teachers,
National Education Association,
National Federation of Business and Professional Women's Clubs,
National League of Women Voters,
National Union of Evangelical Women,
National Woman's Christian Temperance Union,
National Women's Trade Union League,
Service Star Legion,
Women's Board of Home Missions, Methodist Episcopal Church,
Women's Missionary Council of the Methodist Episcopal Church, South,
Young Women's Christian Association (National Board).

AGAINST THE AMENDMENT

Commercial and individualistic groups and organizations, together with self-styled "patriotic" organizations, compose the list of opponents of the Child Labor Amendment, with one exception. They classify, otherwise, as manufacturers, "wets," and anti-suffragists. The list is headed by the National Association of Manufacturers, its member organizations, State branches, and allies. The combined membership of these organizations is numerically small, but their financial strength and resources are enormous, and several of them are essentially propaganda bureaus with a professional staff to furnish a stream of "copy" to the press and other large mailing lists. The list of opposing organizations includes:

National Association of Manufacturers and its State branches or members,
National Association of Worsted and Woolen Spinners,
Southern Textile Manufacturers,
American Association of Flint Lime Glass Manufacturers,
American Mining Congress,
Laundry Owners' National Association,
National Grange (but not all State granges),
Moderation League (organized to oppose the Volstead Act),
American Constitutional League ("wet" and anti-suffrage; president ,Everett P. Wheeler),
Women's Constitutional League (organized to oppose the Sheppard-Towner Act),

Sentinels of the Republic.

The Sentinels of the Republic, whose membership blank states that "Our aim is to provide a clearing house for patriots who seek to rouse the people to the danger of the day," held a "national meeting" in Philadelphia on December 6, which was attended by representatives of the following organizations who spoke against the Child Labor Amendment:

National Association of Manufacturers,

Pennsylvania Association of Manufacturers,
Moderation League (anti-Volstead Act),
American Constitutional League ("wet" and anti-suffrage),
Constitutional Liberty League ("wet"),
Women's Constitutional League (anti-suffrage, anti-Sheppard-Towner Act),
National Security League,
American Defense Society.

Propaganda agencies of the opposing organizations include:

National Committee for Rejection of the Twentieth Amendment, with headquarters in the building with the National Association of Manufacturers in Washington. The committee is composed of seven manufacturers with a director who was previously associate editor of *Industrial Progress*, a manufacturers' organ.

Southern Textile Bulletin, published at Charlotte, N.C., by Davis Clark, in the interest of southern mill owners. This journal has for years opposed child labor legislation and its editor instigated the suits which resulted in the nullification of the two Federal child labor laws.

New York Commercial, which syndicates to hundreds of newspapers a feature entitled "The Searchlight," by Fred R. Marvin. Russell Whitman, managing editor, announced at the meeting of the Sentinels of the Republic in Philadelphia, December 6, that this department of the paper would be devoted from now on to the "showing up" of the "bolshevistic," "communistic," or "socialistic" character or connections of the men and women who support the amendment.

The Woman Patriot, ex-anti-suffrage organ, edited by J. S. Eichelberger, which opposes the amendment in its own pages and furnishes to opposing agencies and the press "copy" attacking women leaders of the organizations supporting the Child Labor Amendment and other social legislation.

This combination of forces against the Child Labor Amendment includes the same elements that fought the woman suffrage amendment, the prohibition amendment, and is still fighting State labor laws for women and children. Its publicity agencies are the same that have attacked women leaders and women's organizations constantly throughout the past two or three years, accusing them of being "controlled from Moscow" and attacking the leaders as "Reds" and "Bolshevists."

The *Dearborn Independent*, which nearly a year ago published an anonymous article attacking the Women's Joint Congressional Committee and its member organizations, has since come out against the Child Labor Amendment for the same alleged reasons.

The basis of all such attacks, and virtually the language of them, is to be found in two pamphlets: one containing reprinted articles by J. S. Eichelberger, editor of the *Woman Patriot*, under the title of "Organizing Revolution Through Women and Children," and the other

a brief against the Child Labor Amendment by James A. Emery, counsel and lobbyist for the National Association of Manufacturers. (From *The Woman Citizen* for December 27, 1924)

CHILD LABOR IN THE UNITED STATES

PREPARED BY THE UNITED STATES CHILDREN'S BUREAU

HOW MANY CHILDREN IN THE UNITED STATES ARE GAINFULLY EMPLOYED?

From *Congressional Digest*, February, 1923.

In the United States, in 1920, over one million (1.060,858) children 10 to 15 years of age, inclusive, were reported by census enumerators as "engaged in gainful occupations." (Fourteenth Census of the United States, population, 1920: Occupations of Children.) This number was approximately one-twelfth of the total number (12,502,582) of children of that age in the entire country. The number of child workers 10 to 13 years of age, inclusive, was 378,063. The census does not report the number of working children under 10 years of age, but it is known that such children are employed in large numbers in agriculture, and in smaller numbers in many other occupations, such as street trading, domestic service, and industrial home work.

IN WHAT OCCUPATION ARE CHILDREN ENGAGED?

Of the child workers, 10 to 15 years of age, inclusive, in the United States, in 1920, 647,309, or 61 per cent, were reported to be employed in agriculture, forestry, and animal husbandry, the majority (88 per cent) of them as laborers on the home farm. An even larger proportion (87 per cent) of the working children, 10 to 13 years of age, inclusive, were reported at work in these occupations. There were 185,337 children, or 17.5 per cent of the total number of working children under 16, employed in manufacturing and mechanical industries—in cotton, silk, and woolen mills, in cigar, clothing, and furniture factories, and in canneries and workshops. Over 80,000 children were engaged in some type of clerical occupation; approximately 63,000 were in trade; 54,000, the majority of whom were girls, were working at occupations classified under "domestic and personal service"; and 7,191—almost all of them boys—were employed in the extraction of minerals. Almost 25,000 children, 10 to 13 years of age, were reported as employed in trade and clerical occupations, over 12,000 in "domestic and personal service," and almost 10,000 in manufacturing occupations.

IN WHAT SECTIONS OF THE COUNTRY ARE THE LARGEST NUMBERS OF CHILDREN AT WORK?

Child labor is confined to no one section of the country. According to the 1920 census the proportion of the total child population 10 to 15

years of age, inclusive, "employed in gainful occupations" ranged from 3 per cent in the three Pacific Coast States to 17 per cent in the East South Central States, comprising Kentucky, Tennessee, Alabama, and Mississippi. In Mississippi more than one-fourth of all the children 10 to 15 years of age were at work; in Alabama and in South Carolina, 24 per cent; in Georgia, 21 per cent; and in Arkansas, 19 per cent. Of the New England States, Rhode Island had the largest proportion of children from 10 to 15 years of age, 13 per cent, "employed in gainful occupations." Except in the South, no other State has so large a per centage of employed children as this. When all occupations are taken into account, the proportion of children at work is much larger in the South than in any other section of the country; but when non-agricultural occupations alone are considered, the proportion is considerably larger for New England and for the Middle Atlantic States and slightly larger for the East North Central States—Ohio, Indiana, Illinois, Michigan, Wisconsin—than for any one of three southern geographic divisions.

Among cities with 100,000 or more inhabitants, the following have 10 per cent or more of their child population 10 to 15 years of age, inclusive, at work: Fall River, 18 per cent; New Bedford, 17 per cent; Reading, 13 per cent; Atlanta, Providence, and Paterson, 12 per cent; Trenton, 11 per cent; New Orleans, Milwaukee, and St. Louis, 10 per cent.

SECOND FEDERAL CHILD LABOR LAW

DECLARED UNCONSTITUTIONAL BY THE UNITED STATES SUPREME CORRT, MAY 15, 1922

From *Congressional Digest*, February, 1923.

THE PROVISIONS OF THE LAW

Included in the Revenue Act Approved February 24, 1919
(Publication No. 354—Sixty-fifth Congress)

Title XII—Tax on Employment of Child Labor

"SECTION 1200. That every person (other than a *bona fide* boys' or girls' canning club recognized by the Agricultural Department of a State and of the United States) operating *(a)* any mine or quarry situated in the United States in which children under the age of 16 years have been employed or permitted to work during any portion of the taxable year; or *(b)* any mill, cannery, workshop, factory, or manufacturing establishment situated in the United States in which children under the age of 14 years have been employed or permitted to work, or children between the ages of 14 and 16 have been employed

or permitted to work more than eight hours in any day or more than six days in any week, or after the hour of 7 o'clock P.M., or before the hour of 6 o'clock A.M., during any portion of the taxable year, shall pay for each taxable year, in addition to all other taxes imposed by law, an excise tax equivalent to 10 per centum of the entire net profits received or accrued for such year from the sale or disposition of the products of such mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment."

Sections 1201–1207 provide, in the order given, for deductions, liability for unfair sale of products, employment certificates, sales returns, inspection of premises, and taxable year.

THE DECISION OF THE UNITED STATES SUPREME COURT WHICH DECLARED THE "SECOND CHILD LABOR LAW" UNCONSTITUTIONAL

The opinion of the Court was delivered by Mr. Chief Justice Taft. Mr. Justice McKenna, Mr. Justice Day, Mr. Justice Van Devanter, Mr. Justice Pitney, Mr. Justice McReynolds, Mr. Justice Brandeis, and Mr. Justice Holmes concurring. Mr. Justice Clark dissenting.

From *Congressional Digest*, February, 1923.

THE CASE

Argued March 7 and 8, 1922. Decided May 15, 1922

J. W. Bailey and J. W. Bailey, Collector of Internal Revenue for the District of North Carolina, Plaintiff in Error v. *Drexel Furniture Company.*

This case presents the question of the constitutional validity of the child labor tax law. The plaintiff below (in the lower court), the Drexel Furniture Company, is engaged in the manufacture of furniture in the western district of North Carolina. On September 20, 1921, it received a notice from Bailey, United States collector of internal revenue for the district, that it had been assessed $6,312.79 for having, during the taxable year 1919, employed and permitted to work in its factory a boy under 14 years of age, thus incurring the tax of 10 per cent on its net profit for that year. The company paid the tax under protest, and after rejection of its claim for a refund brought this suit.

THE COMPLAINT AGAINST THE LAW

The law is attacked on the ground that it is a regulation of the employment of child labor in the States—an exclusive State function under the Federal Constitution and within the reservations of the Tenth Amendment.

THE DEFENSE OF THE LAW

The law is defended on the ground that it is a mere excise tax levied by the Congress of the United States under its broad power of taxation conferred by Section 8, Article I, of the Federal Constitution.

THE HOLDING OF THE SUPREME COURT SUSTAINING THE JUDGMENT OF THE LOWER COURT

The child labor tax law of February 24, 1919, imposing a tax of 10 per cent of the net profits of the year upon an employer who knowingly has employed, during any portion of the taxable year, a child within the age limits therein prescribed, is not a valid exercise by Congress of its powers of taxation, under United States Constitution, Article I, Section 8, but is an unconstitutional regulation by the use of the so-called tax as a penalty of the employment of child labor in the States, which, under United States Constitution, Tenth Amendment, is exclusively a State function.

FIRST FEDERAL CHILD LABOR LAW

DECLARED UNCONSTITUTIONAL BY THE UNITED STATES SUPREME COURT JUNE 3, 1918

THE PROVISIONS OF THE LAW

Approved September 1, 1916. Publication No. 249—Sixty-fourth Congress

From *Congressional Digest*, February, 1923.

R. R. 8234—An Act to prevent interstate commerce in the products of child labor, and for other purposes.

"*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,* That no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate or foreign commerce any article or commodity the product of any mine or quarry, situated in the United States, in which within thirty days prior to the time of the removal of such product therefrom children under the age of 16 years have been employed or permitted to work, or any article or commodity the product of any mill, cannery, workshop, factory, or manufacturing establishment, situated in the United States, in which within thirty days prior to the removal of such product therefrom children under the age of 14 years have been employed or permitted to work children between the ages of 14 years and 16 years have been employed or permitted to work more than eight

hours in any day, or more than six days in any week, or after the hour of 7 o'clock P.M., or before the hour of 6 o'clock A.M.: *Provided,* That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any article or commodity under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such article or commodity before the beginning of said prosecution."

Sections 2–6 contain provisions for enforcement and prescribe penalties for violation of the act.

Section 7 provides that the act shall take effect one year from the date of its passage.

CHILD LABOR LAWS OF OTHER COUNTRIES

United States. House. Committee on the Judiciary. Report to accompany House Joint Resolution 184. Sixty-eighth Congress, First Session. House Resolution 395, pp. 19–20. March 28, 1924.

According to the most recent information available, Belgium, Czechoslovakia, Denmark, Germany, Great Britain, Netherlands, New Zealand, Kingdom of the Serbs, Croats, and Slovenes, Sweden (fourteen, girls; thirteen, boys), and Switzerland have adopted a fourteen-year minimum and Russia has a sixteen-year minimum, for employment in industrial undertakings, in some countries with certain exemptions. Argentina, Germany, Japan (law effective 1926), and New Zealand prohibit night work for children under 16—in most countries with certain exceptions allowed—for example, work in continuous industries, and in trades dealing with perishable materials. Only a few American states prohibit night work for both boys and girls under 18 years, while China prohibits it for boys under 17 and girls under 18, and Austria, Belgium, Denmark, France, Great Britain, Italy, the Netherlands, Norway, Peru, Russia, Kingdom of the Serbs, Croats, and Slovenes, Sweden, and Switzerland prohibit it under the age of 18 years, and Portugal prohibits night work for all workers. Additional protection is afforded girls in many foreign countries, but in only about a fourth of our states, through laws providing for night rest for women.

The eight-hour day and forty-eight-hour week in industrial undertakings, with certain exemptions, have been adopted for all workers, children and adults, for certain occupations at least, in Austria, Belgium, Czechoslovakia, Ecuador, Finland, France, Germany, Italy, the Netherlands (eight and one-half per day, forty-eight per week), New Zealand (forty-five hours for boys under 16 and for females), Norway, Panama, Poland (forty-six-hour week), Portugal, Russia, Kingdom of the Serbs, Croats, and Slovenes, Spain, Sweden, Switzerland, and Uruguay. China has an eight-hour day for children under 17, and India a six-hour day for children under 15.

In addition to these reltaively high child labor standards in the

foreign countries cited above, the provisions of the draft conventions recommended by the International Labor Conference, held in Washington in 1919, include for industrial undertakings a minimum age of 14, an eight-hour day and forty-eight-hour week for all workers, prohibition of night work for young persons under 18—with certain exemptions for children over 16—and prohibition of night work for women. Provision is made for exemptions under certain conditions, and modifications are specified for Japan and India. All four of these conventions have been ratified by Bulgaria, Greece, and Rumania. Czechoslovakia has ratified conventions relating to minimum age, night work for women, and hours. Great Britain, Switzerland, and Esthonia have ratified the minimum-age and both night-work conventions; India has ratified the hours of labor, and both night-work conventions; Denmark has ratified the minimum-age convention and that relating to night work of young persons; and Italy has ratified both, South Africa and the Netherlands one of the night work conventions. In Japan ratification of the minimum-age convention, and in Finland, the Netherlands, and Poland ratification of both the minimum-age convention and that relating to night work of young persons has been authorized.

CHILD LABOR AMENDMENT

United States. House. Committee on the Judiciary. Report to accompany House Joint Resolution 184. Sixty-eighth Congress, First Session. House Resolution 395, 21 pp. March 28, 1924.

PROVISION ON THE TWO FEDERAL LAWS

The two Federal laws which have been held unconstitutional by the Supreme Court did not specifically prohibit or regulate the employment of children. By prohibiting the shipment of the products of child labor in interstate or foreign commerce, or imposing a tax on child-employing industries, they established in effect the following minimum standards for the United States as a whole during the period they were in operation:

(a) Age Minimum

I. In mills, canneries, factories, workshops, and manufacturing establishments: Fourteen years (without exemptions).

II. In mines and quarries: Sixteen years (without exceptions).

(b) Educational Minimum

None.

(c) Physical Minimum

None.

(d) Maximum Hours for Children Under 16

In mills, canneries, factories, workshops, and manufacturing establishments: Eight hours per day and six days per week.

(e) Prohibition of Night Work for Children Under 16

In mills, canneries, factories, workshops, and manufacturing establishments: Between 7 P.M. and 6 A.M.

Summary of State Child Labor Legislation

The legislation of the states varies so in the occupation to which it extends, as well as the exemptions and exceptions which are made, that general statements with reference to the protection afforded the children are impossible.

(a) Age Minimum

I. In factories, stores, etc. (canneries and other establishments handling perishable products not included):

Over 14 years (with exemptions limited to outside school hours), three states: Maine (15), Michigan (15), Ohio (16).

Over 14 years (with exemptions not limited to outside school hours), three states: California (15), Montana (16) Texas (15). (Montana has no minimum age for work in stores.)

Fourteen years (without exemptions), sixteen states: Connecticut, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Virginia. (In Rhode Island, after September 1, 1924, minimum age 15 during school hours, without exemptions.)

Fourteen years (with exemptions limited to outside school hours), eleven states: Alabama, Arizona, Arkansas, Colorado, Idaho, Kansas, Minnesota, Nevada, Oregon, West Virginia, Wisconsin.

Fourteen years (with exemptions not limited to outside school hours, twelve states: Delaware, Florida, Georgia, Iowa, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, South Dakota, Vermont, Washington. (Florida, Georgia, Oklahoma, South Carolina, and Vermont have a lower minimum age or no minimum age for work in stores.)

Under 14 years, 3 states: Mississippi (boy 12, girl 14), Utah (no age minimum), Wyoming (no age minimum). Mississippi has a

lower age or no minimum age for work in stores; certain dangerous or injurious occupations prohibited under 16 in Utah and under 14 in Wyoming. In Wyoming, no child whose attendance at school is required by law may be employed in factories or stores during school hours.)

II. In mines (for boys):

Over 16 years, four states: Arizona (18), New Jersey (18), Texas (17), Wisconsin (18).

Sixteen years (without exemptions), twenty-six states: Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Montana, Nevada, New York, North Crolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Utah, Vermont, Virginia, West Virginia.

Sixteen years (with exemptions), two states: Iowa, Washington.

Under 16 years, nine states: Idaho, Louisiana, Michigan, Minnesota, New Mexico, Rhode Island, South Carolina, South Dakota, Wyoming.

No minimum age specified in law, seven states: Florida, Georgia, Maine, Massachusetts, Mississippi, Nebraska, New Hampshire. (In Florida by implication from employment-certificate law, minimum age would be 14.)

(b) Educational Minimum

Grade requirements for regular employment certificates:

Eighth grade or common-school course, thirteen states: Delaware, Indiana, Kansas, Minnesota, Montana, Nebraska, New York, North Dakota, Oregon, Utah, Vermont, Washington, Wisconsin. (All states except Indiana, Kansas, Minnesota, Montana, Oregon, and Vermont had exemptions to this law.)

Seventh grade, two states: Californa, Ohio.

Sixth grade, nine states: Connecticut, Illinois, Iowa, Maine, Massachusetts, Michigan, Pennsylvania, Rhode Island, West Virginia. (In Connecticut, local school authorities may raise this requirement; State board of education or school officials designated by it may make exemptions.)

Fifth grade, four states: Arizona, Kentucky, Maryland, New Jersey.

Fourth grade, two states: Alabama, Arkansas.

No grade specified; knowledge of certain subjects required (usually reading and writing, and sometimes simple operations in arithmetic), seven states: Colorado, Florida, Idaho, New Hampshire, Oklahoma, South Dakota, Tennesseee. (Colorado, Oklahoma, and South Dakota have this law with exemptions; in Idaho the requirement is specified but no provision made for certificate.)

No requirement other than specified school attendance in the preceding year, one state: Georgia.

No educational requirement, ten states: Louisiana, Mississippi, Missouri, Nevada, New Mexico, North Carolina, South Carolina, Texas, Virginia, Wyoming.

(c) Physical Minimum

(This summary covers only examinations for physical fitness required for regular employment certificates.)

I. Examination by physician before child goes to work mandatory, twenty-two states: Alabama, Arizona, California, Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Virginia. West Virginia. (See also Wisconsin under II.) (Indiana and North Carolina have this law with exemptions.)

II. Examination by physician before child goes to work optional with certificate-issuing officer, seven states: Florida, Maine, Michigan, Nebraska, Oklahoma, Oregon, Wisconsin (required in Milwaukee for all applicants for first regular employment certificates).

III. No provision for requiring examination by physician before child goes to work, nineteen states: Arkansas, Colorado, Georgia, Idaho, Kansas, Louisiana, Mississippi, Montana, Nevada, New Mexico, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, Wyoming. (In Wyoming there are no provisions in the law for employment certificates applicable to general occupations.)

(d) Maximum Hours Per Day for Children Under 16

In factories and stores (canneries and other establishments handling perishable products are not included):

Eight hours per day for children 14 to 16 in both factories and stores, thirty states: Alabama, Arizona, Arkansas, California, Colorado, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Tennessee, Virginia, Washington, West Virginia, Wisconsin, Wyoming. (Colorado, Missouri, Iowa, New York have this law with exemptions.)

Eight hours per day in factories, but law either does not apply to stores or does not apply to all children between 14 and 16 years of age, six states: Connecticut (factories only), Maine (factories only with exemptions), Mississippi (factories only, with boys 14 to 16 in cotton and knitting mills exempted), Montana (factories only, and no child under 16 may be employed at any time in factories), Utah (boy 14–16 not covered by law), Vermont (factories only).

Nine hours per day, three states: Florida (factories only), Idaho, Pennsylvania.

Ten hours per day, six states: Louisiana, Michigan, Rhode Island, South Carolina, South Dakota, Texas (law applies only to child under 15). (Exemptions in Louisiana, South Carolina, and South Dakota.)

Ten and one-fourth hours per day, one state: New Hampshire.

No limitation on hours per day, one state: Georgia.

Eleven hours per day, one state: North Carolina (factories only; eight-hour day for children under 14.)

(e) Prohibition of Night Work for Children Under 16

In factories, stores, etc. (canneries and other establishments handling perishable products not included):

Prohibited at least in factories and stores, thirty-five states: Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

Prohibited in factories but not in stores, seven states: Florida, Maine, Michigan, Montana, Oklahoma, South Carolina, Vermont.

Prohibited in factories, but only for children under 14½, one state: Georgia.

Prohibited in factories, but boys 14 to 16 in cotton and knitting mills exempted, one state: Mississippi.

No prohibition, four states: Nevada, South Dakota, Texas, Utah.

Comparison of the Standards Established by State Laws With Those Established by the Two Federal Laws Held Unconstitutional

Only thirteen states have child labor laws which measure up in every particular to the standards of the Federal laws. They are: Alabama, Connecticut, Illinois, Indiana, Kansas, Kentucky, New York, Ohio, Oklahoma, Oregon, Tennessee, West Virginia, and Wisconsin.

In addition, the following five states have child labor laws which measure up to the Federal standards, except in regard to employment in mines or quarries, or both: Massachusetts, Minnesota, Montana, New Jersey, North Kakota.

* * * *

The Experience With the First and Second Federal Laws

The proposed amendment, if ratified, will not give Congress a new and untried power. From the experience with the two Federal

laws, the protection afforded the children, the effects on the states, and the administrative problems and costs are definitely ascertainable.

Relationship of the Federal Government to the States and State Enforcing Machinery.

It has been shown that the standards for the employment of children which were in effect established by these two Federal acts were not as high as those of a few states; they were substantially the same as those in a larger number of states, but were considerably higher than the standards fixed in a third group of states. While this was a new type of Federal legislation, the experience of the Bureau of Chemistry in administering the pure food and drug act and a series of studies of the administration of State child labor laws which had been made by the Children's Bureau furnished helpful analogies based on both national and State experience.

The bureau laid its plans on the theory that the full value of this national minimum for the protection of children which the act established would never be realized except through a genuine working relationship between Federal and State officials. The resources of both were inadequate for the task before them. It was, of course, important that needless Federal machinery should be avoided, and that, so far as Federal machinery was established, it should so function as to strengthen respect for the State as well as the Federal laws.

With this end in view, a conference of State officials was called during the summer before the act went into effect, so that the bureau might have the benefit of their advice before the rules and regulations as to certificates of age were adopted and of a detailed discussion of the other problems common to State and Federal officers.

At this conference the State commissioners and chief factory inspectors voted that they desired to have formal recognition by the Federal Government, and, in accordance with their vote, all State officers charged by statute with the enforcement of a State child labor law were commissioned to assist in the enforcement of the Federal act. In commissioning them attention was called to the fact that inspections would be made by the Children's Bureau in any State, either upon its own initiative, upon complaints of violations, or upon the request of State officials.

The help given by the State officials in the enforcement of the Federal act was substantial. It began in some states before the law went into effect with an educational campaign to acquaint employers and parents with the provisions of the act. In a number of states in which children between 14 and 16 years of age were allowed, under the State law, to work more than eight hours a day, State inspectors checked time records in the course of their regular inspections to see whether the Federal eight-hour standard was being violated, and

called the attention of the employers to the fact that their products could not be shipped in interstate or foreign commerce if the Federal eight-hour standard was not observed.

The act itself provided a basis for coöperation between the Federal and State governments in that it was possible to accept for the purposes of the Federal act the certificates of age or work permits issued under State authority. State experience had demonstrated that it is possible to enforce a child labor law only if no child is employed without a certificate and if no certificate is issued except on reliable evidence that the child is of the legal working age. The question of what State certificates should be accepted, therefore, was a very important one in the administration of the act. Having adopted what were regarded as the necessary standards for a good certificate system, the laws and administrative practices of the several states were carefully studied.

It was found possible to accept the State certificates for the purposes of the Federal act in practically all the industrial states. It was, however, found necessary to issue Federal certificates in North Carolina, South Carolina, Georgia, and Mississippi, and at the time the act was declared unconstitutional arrangements were made for issuance in Virginia.

To an inspector of the Children's Bureau was assigned the special duty of coöperating with State officials, and joint inspections with State inspectors were tried in a number of localities. These were useful in acquainting Federal and State inspectors with the methods followed by each, and in impressing parents and employers with the fact that Federal and State officials were working together. It was felt, however, that if long continued joint inspections would be wasteful, as the time of two sets of inspectors was consumed for work which could be done by one. A regular exchange of information was probably what each needed from the other, and with this end in view, arrangements were made by the Children's Bureau to send to the child labor inspection departments of the states a summary of the findings of the bureau inspectors in their own jurisdiction, as well as all rulings and other information with reference to the act which might be published by the bureau from time to time.

The same general method of enforcement was followed by the Bureau of Internal Revenue except that the same close coöperation with State departments of labor was not possible because of the fact that the second child labor law was a revenue measure. That the State labor officials found this measure helpful is indicated by their official statements.

THE TWENTIETH AMENDMENT

A SYMPOSIUM

Summarizing or quoting opinions of numerous men and women on a subject which was debated by Owen Reed Lovejoy and William Elliott Gonzales in the January issue of *The Forum*.

The increasing opposition to the child labor amendment that has developed since its submission to the states by Congress in June makes early ratification of the amendment as a part of the Constitution by three-fourths of the State legislatures extremely doubtful. In the January issue of *The Forum* were discussed the salient points on both sides of the question. Owen Reed Lovejoy, general secretary of the National Child Labor Committee, urges ratification of the amendment on humanitarian grounds, believing that protection of children has become a national issue. His opponent, William Elliott Gonzales, editor of *The State*, Columbia, S.C., represents those who object to Federal centralization and assert that this amendment will make every American under 18 a "ward of Washington."

Reaction to the proposed amendment, judging from the letters received by the editor of *The Forum*, is rather evenly divided, with opposition slightly in advance. Those expressing sympathy with the bill are enthusiastic in its support; others believe in controlling child labor, but believe that the measures proposed are far too drastic; while those holding the opposition believe that children are "better busy than idle," and that Federal "usurpation" has already been carried too far.

THE FIGHT IS ON

"The fight is on!" writes Joy E. Morgan, editor of *The Journal of National Education*. "It will be one of the bitterly fought battles in American constitutional history. Education should stand against opposition like the Rock of Gibraltar." Mr. Morgan then asks ten pertinent questions of those who are honestly trying to make up their minds on this problem. A warning is issued that they may determine the motives of those urging opposition. "Have you read the proposed amendment itself? It does not prohibit child labor, but merely gives Congress power to deal with the problem."

SECTION 1. The Congress shall have power to limit, regulate, and prohibit the labor of persons under 18 years of age.

SEC. 2. The power of the several states is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by Congress.

"Has any honorable citizen anything to fear by granting to Congress authority to deal with a recognized national evil?" asks Mr. Morgan. "Is it good American citizenship to try to create a lack of

faith in the Federal Government? Were not the opponents to this bill also the opponents to compulsory school attendance? Would you put 'states' rights' above human rights?"

As the director of the Juvenile Protective Association of Cincinnati, Lulu May Aler, puts it, there are two points of view from which one should look at the amendment: From the viewpoint of the child, and from the viewpoint of the adult. First, "Children in states that have weak child labor laws and children in interstate or migratory industries have a right to look to our Federal Government for protection from dangerous work, unreasonable hours, and unhealthful working conditions. That the people of the United States have long realized the need for such child protection and have desired to effect it is evidenced by the fact that they have twice, through their representatives in Congress, passed national child labor laws. These laws have been declared unconstitutional; it is now of prime importance to so amend the Constitution as to make sure that our Federal Government has the hitherto lacking power to protect children from detrimental labor conditions.

"From the viewpoint of the adult: It is unfair that employers and workers in states which protect their children through good child labor laws have to compete in prices with employers and child laborers in states with low child labor standards. Moreover, the evil results of child labor affect the whole citizenship of our country not only in an economic way, but also in a social and political way. Child labor which prevents children from receiving an education generally results in unskilled, uneducated men and women. On the other hand, education, supplemented by the right kind of work, usually results in self-supporting men and women. It is the very essence of our democracy that every individual member of it shall have the opportunity to develop into an intelligent self-supporting citizen.

"Figures furnished by the Census Bureau show that more than a million children between the ages of 10 and 15 years are working for wages in the United States," states Arthur Capper, chairman of the Committee on Claims, United States Senate. "It seems to me if the regulation of child labor will in some small degree relieve this situation, it should certainly be given a trial regardless of all objections that may be raised to it." Or, to quote President McCain, Agnes Scott College, Decatur, Ga., "The main point of it all is that the children of our country would thus get the protection they need. My view of the matter is that the amendment is permissive. It allows Congress the right to make laws on the subject. I would be very happy if the states would be so prompt in providing legislative measures that it would not be necessary for Congress to do anything."

"The United States is rich beyond the imagination in material resources," says Desha Breckinridge, Lexington, Ky. "But of all its resources by far the most valuable is its childhood. Nothing should be left undone to protect that childhood. I am unable to comprehend

the mental processes of one who honestly believes in the development and protection of the human race contending that it is an infringement of its powers for the government of all the people to prohibit the mistreatment of the youth of the Nation."

MISAPPREHENSION

"There seems to be misapprehension in some quarters that the ratification of the amendment will result in prohibiting the labor of all children under 18 years of age," writes Wendell F. Johnson, general secretary of the Associated Aid Societies, Harrisburg, Pa. "I feel confident that Congress would not take any such drastic steps under the authority which this amendment would grant, and I consider that Congress should be given powers broad enough to enable it to pass effective legislation for the regulation of child labor without fear of interference by the Supreme Court."

"The objection that we propose to create some kind of industrial despotism at Washington is absurd," insists H. C. Ogden, Wheeling, W.Va. "The American people have shown time and again that they have both the courage and intelligence to change a national administration they do not like, or to change a Congress that is guilty of extravagance or incompetence. If the National Child Labor Law is adopted, it will be a law fairly representative of the thought of the American people. Otherwise it will be nullified either by lack of enforcement or by repeal."

"It seems to me a niggardly restriction on an amendment of the Constitution to say that because we are not ready today to prohibit the labor of children of 18 years of age, we should not provide for that day when we may be prepared to educate and otherwise train our children instead of sending them into the world of industry before that age," is the opinion of Jess Perlman, one of the directors of the Jewish Board of Guardians, New York. Personally, I do not believe that we are now prepared to 'limit, regulate, and prohibit' the labor of persons under 18 years of age, but I do not think that giving Congress the power indicated is likely to be any menace, nor is in any way likely to be exercised until we are so prepared."

"Some people plainly read more into the proposed amendment than is there and would change their attitude if they undersood it better," declares Anna H. Roller, superintendent of the United Charities, Wilkes-Barre, Pa. The chief objection raised to giving Congress power to regulate child labor, is the danger of centralizing too much power in the National Government. If child labor is a national problem, what can be more reasonable than national regulation? Are representatives from the states who sit in Congress likely to ride over the sentiments of their constituents? All that Congress could

do under the amendment would be to establish minimum standards. The states could regulate without limit beyond that point.

THE CHILDREN THEMSELVES

"In the multitude of arguments, pro and con, one fact seems to be completely overlooked," we are reminded by Edith Valet Cook, secretary of the Connecticut Child Welfare Association. "The hotter the argument becomes, the farther away we seem to get from the central fact, the chlidren themselves. In letting young people go to work without an educational foundation on which to build future and spiritual growth, we are daily increasing that horrifying dullness of our American life which Sinclair Lewis in *Main Street* has pointed out to us. In the midst of this sea of argument, let us remember the children, those children who work long hours, who often have too little time for real play. The children of today deserve our ultimate effort. The child labor amendment is one logical step toward insuring them an opportunity."

This plea finds numerous "seconds." Among them is a letter from Douglas P. Falconer, superintendent of the Children's Aid, Erie County, New York. "There is a good deal of legitimate sentiment connected with this question, but a man needs no sentiment to object to the wasteful use of child life, for national prosperity, security, and progress must depend upon a careful husbanding of our human resources." Mary E. Holland, executive secretary of the Colorado Children's Aid Society, Denver, does not believe in "the democracy that permits the division of its children into two classes, privileged and underprivileged. The rights of the underprivileged child are the same as the rights of the priviliged child. If State laws do not give and enforce that protection to poor children, which is due in the States of the United States, power should be given Congress to make and regulate such laws and protection." Such an amendment, in the opinion of J. Teuscher, Jr., superintendent of the Boys' and Girls' Aid Society of Oregon, however poor it is, will make it easier for those who think clearly to present their case to the jury of public opinion.

HOBSON'S CHOICE

There are those who believe that we should, as a nation, regulate child labor possibly by amending the Constitution, but who give their support "reluctantly" to this measure. Stephen R. Coleman, Birmingham, Ala., writes: "Were it possible to incorporate some reasonable provision for educational hours or periods into such an amendment, it might be more acceptable, but if not, and we must choose between the amendment and no amendment at all, our people

owe it to themselves as a people to pass the amendment." Centralization of power in the Federal Government can be carried too far. Yet there are questions with which only the Federal Government can deal with properly and effectively. One of these questions is child labor, in the estimation of Herschel Dove, editor of a local paper at Bristol, Va.-Tenn. "I am in favor of a child labor amendment, but I am not in favor of the pending amendment. The age limit of children who would be affected is placed too high, and no exemptions are provided for. If adopted, it might prove as great an evil as that which it is intended to cure."

"It hardly seems a case for debate, as both sides are right," declares W. D. Hooper, instructor in the University of Georgia. "All humane people must wish to see more enlightened laws on the subject of child labor and all thoughtful people must deplore the increasing tendency to cure every evil of the body politic by rushing to Washington for an amendment to the basic law of the country." Others who "do not see much in the national bill to condemn, nor are they loud in commendation" are J. C. Denious, Dodge City, Kan.; A. S. Edwards, University of Georgia, who "has some doubts as to whether the amendment as it stands is adequate, yet feels that the purpose of the amendment should be accomplished." Charles Spencer, Arkansas City, Kan.; Charles E. Brown, Cordele, Ga.; George Fort Milton, Chattanooga, Tenn.; E. Marvin Underwood, Atlanta, Ga.; and Anna B. Pratt, Philadelphia, hold similar views.

OPPOSE AMENDMENT

"It is always superfluous, apparently, to ask a Southerner what he thinks of a Federal amendment," frankly confesses a Southerner, W. T. Anderson, editor of a daily newspaper at Macon, Ga. "There are some instances where the South has not been true to tradition, but as a vast volume of blood and lives was spent in trying to establish the principles of States' rights, we of the South have at least had enough schooling in this direction to cause us to be fixed for all time."

It is this "encroachment by the Federal Government" that seems to be at the base of the most bitter attacks on the proposed amendment. "We have been prussianized sufficiently without this final step," declares R. Charlton Wright, Columbia, S.C. "Unlimited Congressional power (not subject to judicial restraint) expressly to 'limit, regulate, or prohibit the labor' and implied education of all 'persons under 18 years of age' as proposed to be granted by the miscalled child labor amendment cannot be discussed in a few words. It is not an amendment, but a constitutional revolution." This in the opinion of George Stewart Brown, member of the Board of United States General Appraisers, Washington. He continues, "It destroys the states' and local self-government under our existing Federal system

and substitutes a consolidated national bureaucracy directed by a practically omnipotent Congress. It grants power not now possessed by any government in America. In effect it limits the right of the Supreme Court to declare acts unconstitutional except for the protection of mere 'property' rights. It destroys the bill of rights, and violates every American tradition, and follows the policy of Soviet Russia. I am afraid to trust Congress for all time with such drastic and far-reaching power over the family life of the American people."

AN ATTACK ON STATES' RIGHTS

Various reasons are given for opposition to the proposed amendment, but the majority stress this very point of "empowering the United States Government to do what the states are better equipped to do for themselves." Shall child labor be regulated by the Government or by the separate states? This question is asked and discussed by Eugene F. Dodd, Atlanta, Ga.; M. F. Goldstein, likewise of Atlanta; Charles F. Scott, editor of a newspaper at Iola, Kan.; T. R. Waring, Charleston, S.C.; L. P. Artman, Key West, Fla.; Lew B. Brown, St. Petersburg, Fla.; Powell Glass, Lynchburg, Va.; R. H. Clagett, Rome, Ga.; Erwin Craighead, Mobile, Ala.; R. Brazile Brossier, Orlando, Fla.; Willis M. Ball, Jacksonville, Fla.; L. W. Bloom, Lakeland, Fla.; and various other editors throughout the South.

CHILD LABOR GOOD FOR MUSCLE

Various *Forum* readers believe that children under 18 should not be deprived of the privilege of work. "The muscle, as well as the mind, should be educated. Today we find that the carpenters, brick masons, and plaster men and in fact the laboring class of people are drawing larger salaries than our bookkeepers and our business men. "Train up a child in the way he should go and when he is old he will not depart from it," this contributor, John L. Sutton, Jackson, Miss., reminds us. "In the purely industrial sections, the child on the farm during his school vacation seasons would be much better off, both physically and mentally, working in the fields. To remove the child from the cotton fields would be disastrous to the cotton farmer." This in the judgment of J. M. Watters, Georgia School of Technology.

Our attention is invited to the point that less than six-tenths of 1 per cent of the children of the United States are employed in dangerous or unhealthy places, according to a letter from Henry St. George Tucker, Representative from the Tenth District, Virginia. "This is the most vicious piece of legislation ever offered to the American people, and when properly explained will meet its just condemnation at their hands," he asserts.

"How many widow's sons and daughters will this proposed legislation stop from aiding in the struggle to keep starvation from the

door?" asks Howard H. Hold, publisher at Grafton, W.Va. "How many budding geniuses will it prevent from indulging in healthful and developing employment, to convert them into habitual idlers and ne'er-do-wells? The manifest workings of this project violate all the sacred traditions of American principles of personal liberty. It invades the even more sacred relation of parent and child, robbing the parents of their innate and natural right and duty to direct and control the training of their children for the struggle of life."

WHOLLY UNNECESSARY

"Such an amendment is wholly and entirely unnecessary," in the estimation of R. V. Covington, Jacksonville, Fla. "The states can impose such laws as may seem proper and necessary. Conditions are not the same in all states. In view of some of the measures which Congress has pased and tried to pass, I feel that it would be extremely dangerous to put this power in its hands. We are already drifting too much toward centralization and paternalism. We need less laws and more lawful citizenship, less prohibiting and more encouragement to respect the Constitution of our forefathers, from which we have already drifted too far."

"Uncle Sam may find it possible to publish the private affairs of the taxpayers and use a public bulletin board to post the income of gentlemen, and thus satisfy the curiosity of political ghouls, but trouble will come when the old gentleman seeks to usurp the privileges of the mother and father who still believe that to them is given the sole right of spanking their teen-age boys and girls," says Jesse B. Hearn, Montgomery, Ala.

"The individual citizen has never surrendered the power of control over his children to the extent provided in this amendment," declares Walter F. George, United States Senate. "No government yet set up in America has the right, power, or authority to prohibit the useful labor of a child, 17 years old, when that labor is neither injurious to the child nor to society. It is perfectly idle to say that Congress will never exercise the power and the answer to this is: Why grant the power if the Congress is not to exercise it in any circumstance? There is no possible justification why free men and women should surrender the power to control their own children in perfectly legitimate and useful labor or work when such labor is neither injurious to the child nor to any member of society. Every abuse of child labor can be corrected by the State in the exercise of its constitutional power, and could be corrected by the Federal Government under an amendment granting legitimate power." Similar statements of opinion are expressed in letters received from Charles R. Crisp, Representative from Georgia; Grover C. Hall, Montgomery, Ala., and W. H. Roberts, Birmingham, Ala.

CHILD LABOR IN THE UNITED STATES

Extracts from bulletin of that name issued in 1923, by Children's Bureau of Department of Labor

During the decade between 1910 and 1920 Federal regulation of child labor was for the first time in effect. The first Federal child labor law, enacted on September 1, 1916, to become effective one year after its passage, prohibited the shipment in interstate and foreign commerce of goods produced in mines or quarries in which children under 16 years of age were employed, or in mills, canneries, workshops, factories, or manufacturing establishments in which children under 14 years of age were employed, or in which children between 14 and 16 years of age worked more than eight hours a day or six days a week or between 7 P.M. and 6 A.M. This law was declared unconstitutional by the United States Supreme Court on June 3, 1918. A second Federal law, known as the child labor tax act, was passed in February, 1919, and put a premium on the observance of the same standards by imposing a tax upon the profits of all mines and manufacturing establishments employing children in violation of these standards. Although since declared unconstitutional (on May 15, 1922), this law was in effect at the time of the 1920 census.

While this law may be said to have been an important factor in the decrease which the 1920 census shows, its effectiveness was undoubtedly weakened by the fact that it did not directly prohibit or regulate child labor, but merely tended to discourage it by imposing a tax upon the profits of establishments employing children contrary to the standards set up, and by the fact also that pending the decision of the United States Supreme Court as to the constitutionality of the law the collection of the tax was rendered difficult.

State standards relating to the employment of children were also raised in a number of states during this period. Laws fixing the minimum age for going to work were strengthened in at least one-half of the states, either by raising the age or by increasing the number of occupations to which the law applied, or in both ways.

In many states these measures were supplemented and the number of child workers consequently reduced by raising the educational, physical, or other requirements which a child must meet before being permitted to go to work. The number of states fixing a maximum working-day of eight hours for children under 16 in any considerable number of occupations increased from 7 to 28, and the number of those having no prohibition of night work of such children fell from 23 to 7 during the decade. The possibility of adequate enforcement of these various regulations was increased by both legislative and administrative action. Moreover, the standards of compulsory education laws were generally raised so that fewer children could leave school for work. Although these laws may not be well enforced in many

localities, in 1920 every State at least had such a law, while in 1910 there were seven states without compulsory education provisions. A new type of legislation, providing for the part-time education of employed children during their working hours, was passed during the decade in twenty-two states. This legislation undoubtedly had an influence upon the extent of child employment in 1920 in communities where continuation schools had been started, since, as in the case of restriction of hours, employers are said to be loath to hire persons for whom special arrangements must be made.

LEGISLATION AND CHILD LABOR IN MINES

According to the census returns the number of children 10 to 15 years of age, inclusive, employed in mining occupations declined 60 per cent in the period 1910–1920, as compared with an increase of 13 per cent in the total number of persons engaged in the industry. During this period not only did Federal regulations become effective, imposing a minimum age of 16 years for the employment of children in and about mines, but in addition all of the principal mining states except two—Illinois and Indiana—raised the minimum legal age for such work to 16. Illinois had had a 16-year age minimum for mining in 1910. Indiana, which had a minimum age of 14 years in both 1910 and 1920, nevertheless showed a decrease in child labor in the mining industry of 61.4 per cent as compared with an increase of 37.1 per cent in the total number of persons employed in mining, apparently a case of the influence of the Federal law in a State with standards lower than the Federal standards.

IS CHILD LABOR REGULATED BY THE FEDERAL GOVERNMENT AT THE PRESENT TIME?

Since the Federal child labor tax law was declared unconstitutional on May 15, 1922, the Federal Government has had no jurisdiction over the employment of children in the states. That the need for uniformity in standards is as imperative today as at the time the first Federal child labor law was passed in 1916 is shown by the fact that while many of the states recognize in their laws the desirability of the 14-year age minimum, the eight-hour day, and the prohibition of night work for children, only seventeen have as high requirements with respect to employment in factories, mills, canneries, and workshops as the Federal laws, and only thirteen measure up in all particulars, without exemptions, to the Federal standards.

Inasmuch as two attempts of the Federal Government to extend its protection to child laborers by indirect measures have been declared unconstitutional by the United States Supreme Court, it would appear that Federal regulation is possible only through an amendment to the Constitution specifically granting to Congress the power

to pass laws prohibiting and regulating the employment of children in the various states. Since the decision of the United States Supreme Court on the Federal child labor tax law, a number of resolutions have been introduced in Congress looking to this end.

HOW IS CHILD LABOR REGULATED BY THE STATES AT THE PRESENT TIME?

The child labor laws of the states set up certain standards—age, educational, and physical, as a rule—which the child must meet before he can be employed in a specified list of occupations. They limit his hours of employment during the first years of his working life, and prohibit him from engaging in certain hazardous employments. The laws are enforced through a work-permit system administered in most states by local school authorities and through inspection of the place of employment by some State agency, usually the Department of Labor. Moreover, in every State the compulsory school attendance law, if enforced, indirectly regulates the employment of children during school hours.

The failure of the State child labor laws to prevent the widespread employment of children shown by the census reports is not altogether due to low standards; it is due also to the numerous exemptions permitted by many of the State laws and to inadequate enforcement of the laws.

Few State laws apply specifically to farm work or domestic service. Although a number of child-labor laws apply to "all gainful occupations," and therefore nominally cover farm work and housework, practically the only regulation of these types of child labor is that which results indirectly from the operation of the compulsory school attendance laws.

AFFIRMATIVE ARGUMENTS

THE CHILDREN'S AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

BY FLORENCE KELLY

From the *Woman's Home Companion* for January, 1923

The children of today are the republic of the near future. Ten years hence all those who are now eligible for "working papers" will be voters. Above all other interests, all other concerns, all other duties rises the obligation of the American people to cherish our young successors. Most sacred is their right to childhood. Children have no votes, no organizations, no wisdom drawn from experience of life. They and the future republic are, therefore, utterly at the mercy of the adults among whom the children dwell. Our civilization will

survive or perish according to our treatment of the children of today and the standards that we bequeath to them.

Thousands of men and women have for years been working to create standards of safety, health, and intelligence. In response to their efforts Congress passed one child labor law in 1916. The Supreme Court held it unconstitutional in 1918. Congress passed a second in 1919, designed to meet the opinion of the court. This second Federal child labor law the Supreme Court held void in May, 1922, after it had been in force three years and three weeks, to the great benefit of multitudes of children.

The response to the second veto by the Supreme Court is a sheaf of joint resolutions for an amendment to the Federal Constitution, introduced in the Senate and House. For Congress is confronted by a condition, not a theory.

The people of this country have been striving (some of them for forty years and even longer) to stop, through the laws of the states, all labor of young children; and the deaths, mutilations, diseases, and ignorance that arise from the employment of older boys and girls.

Since the second adverse decision of the Supreme Court pressure upon the Congress is more urgent than ever. For people are increasingly well informed as to the hazards of industry; and these hazards, excessive heat and humidity, overstrain, accidents from machinery, and exposure to trade poisons, are all more dangerous to the young than to the mature. All the more advanced European countries forbid by law the employment of youthful workers in the lead trades, but there is no such legal protection given to children in the United States, and, according to a report made to the Federal Government by Dr. Alice Hamilton, now on the faculty of Harvard Medical School, large numbers of boys are employed in the printing trades in work which exposes them to lead poisoning. The same thing is true in many potteries, where lead glaze is used.

THREE THOUSAND INJURED CHILDREN

Since 1910 reports have come to *Medical Journal* of benzol poisoning in women and girls who use a certain sealing mixture in the manufacture of tin cans. Benzol is a blood poison which causes hemorrhages, and not only destroys the blood corpuscles but injures the bone marrow on which the production of new corpuscles depends. The most serious cases of benzol poisoning were in girls of 14 years, two of whom died from extreme anemia. These accidents are rare, but they may increase rapidly, for benzol is used more and more all the time and there is no law in any State to forbid the exposure of girls and boys to this dangerous poison. . . .

Left to the neglect of the states, the deaths and injuries of the young workers are not even recorded and made public. Only where there is a workmen's compensation law, and as an incident to its

enforcement, can we get facts like those recently published by the Women in Industry Division in the New York State Department of Labor. According to these official figures 2,997 minors, 14 to 18 years of age, were injured seriously enough in 1917, in New York State, to be paid compensation. And it should be borne in mind that nothing is paid for any injury which keeps the victim away from work less than fourteen days. That is the first and only year for which this knowledge is yet available. How many thousand injured children in all the states remain uncompensated we have no means of learning. . . .

Able lawyers . . . were convinced that . . . Congress could always deal with child labor.

The Supreme Court having definitely held otherwise, the end sought is, therefore, (1) to continue all the protecting powers now belonging to the states; (2) to add explicitly to the powers of Congress a new power to safeguard the children; and (3) to do this without depriving Congress of any power already granted by the Constitution.

We see no conflict between Congress and the states as instruments for saving the future republic by saving the present children. . . .

WHERE CHILDREN DO NOT THRIVE

Among the oldest and largest employers of children is the manufacturer of textiles. It proceeds under at least fourteen varieties of child labor laws in fourteen states: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Maryland, Virginia, North and South Carolina, Georgia, and Alabama. Of these fourteen various laws none is adequately enforced. And there are textile factories, and child labor laws no better enforced, in other states. The children working in the textile industries do not thrive. Notoriously they are not of full stature, compared with school children of the same years. They are not of equal intelligence. The employments open to them in the future are not so desirable as those that await children whose fathers earn enough to feed, clothe, and shelter the mothers in the home, and keep the children at school.

Unbelievable is the contrast between the benefits which Congress heaps upon investors, and the neglect to which working children are consigned by the states. For the investors, the Federal Government safeguards their patents and maintains the tariff and the Federal Reserve Board. A century ago it taxed out of existence the State banks. It promotes unceasingly the flow of interstate commerce. It upholds and applies for benefit of investors the Fourteenth Amendment. In time of industrial strife Federal prosecuting officials and courts are ready.

For the children, the states provide labor inspectors (if any) without technical training or effective civil service tenure of office, and

jurors who are sometimes stockholders in the company whose law-breaking they are called upon to try. There is no sickness insurance; worst of all, there is no unity among the states. For children undersized, illiterate, and without schools, who toil in Mississippi, South Carolina, and Georgia, what consolation is it that in Montana and the State of Washngton boys and girls are free and happy?

HOW MANY ARE KILLED OR INJURED?

The states have not, like Congress, been declared devoid of power to protect their children. But they have always had the right to do nothing, to shirk, to ignore the future, to accept as inevitable the coincidence between the cotton textile industry and a high general death rate, a high infant mortality rate, a high tuberculosis rate. Twenty-five states do not register 90 per cent of their births, and are, therefore, excluded from the birth registration area. But full birth records are the foundation of enforcement of all child labor laws. Who can tell whether unregistered children are of the legal age for beginning to work? And what have the wage-earning children to hope for, while they are left to states so indifferent as not to know how many children are born? Or how many are killed or injured?

State officials whose duty it is to inspect powerful corporations and enforce rigorous health measures find their appointments not only precarious and ill paid but hard to hold. State legislators who insist upon safeguarding young workers in small industrial centers where there are no powerful organized bodies of women or of wage-earners tend not to be renominated. The removal of a faithful State inspector, the failure to reëlect a legislator humane but not famous, are obscure episodes. No scandal resounds from Washington to the Pacific, and the children themselves do not even know what has befallen them.

One invaluable survival there is from the brief existence of the Federal child labor laws. They indicated what we may hope from a Federal law after the amendment has been passed. Two examples will suffice:

State child labor laws in the South do not protect children in textile mills, whether owned in the North or in the South So long as the Federal law was in force, the owners, wheresoever situated, obeyed it, to the great advantage of the children.

In fruit and vegetable canneries the change for the better was revolutionary. In New York, colonies of young city children with their mothers had long camped in bunk-houses in rural places, working unlimited hours while there were peas to shell, or beans to snip, or strawberries to hull. Not one penalty had been enforced under the State law. When the Federal statute took effect, law was suddenly respected. Mothers worked only the hours specified in the State law, and children below the age of 14 years disappeared. Older children began to rest at night and benefit by the short working day.

For the area of the Federal Court was broad. The jury might no longer consist of farmers who supplied fruit and vegetables to the cannery, and sometimes held its shares. Importers of mothers and little children from distant places for the canning season could no longer depend upon neighbors for sympathy and a favorable verdict.

The canning industries did not suffer. None went out of business or left the State. They adopted standards common to efficiently conducted employment. They improved their mechanical equipment, and limited their contracts with farmers to amounts of fruit and vegetables which they could preserve.

Deprived of the stimulus of the Federal statute, the canning industry reverts to its old privileges.

Far from paralyzing the initiative of the State lawgivers and enforcing authorities, the coöperation of the Federal Government did, in fact, strengthen both. Several states with industries highly developed improved their own child labor laws while the Federal law was in force. This actual, though brief and limited, experience is a rational and an eminently concrete basis for hope. . . .

TENEMENT HOME WORK CONDITIONS SUMMARIZED IN NEW YORK AND NEW JERSEY

From *The American Child,* Monthly Bulletin of General Child Welfare. National Child Labor Committee, New York, N.Y., February, 1924.

Conditions in tenement home work in cities, with special reference to child labor, were the subject of public hearings in both New York and New Jersey during the first two weeks of January. Both states held hearings at this time in order to ascertain whether or not further legislation is needed to regulate manufacturing now carried on extensively in tenement houses.

The New York hearing, held in City Hall on the morning and afternoon of January 10, came as the result of a ten months' investigation into tenement home work conditions in New York City, carried on by workers of the National Child Labor Committee, the New York Child Labor Committee, the New York Consumers' League, the New York State Department of Labor, and the New York City Department of Health, under the supervision of the New York State Commission to Examine Laws Relating to Child Welfare.

The testimony given at the hearing presents an interesting division of opinion as to the future treatment of this form of work. Those who believed that tenement home work should be abolished altogether by law were in about equal force with those who felt that such abolition would work untold hardship upon many poor women and their families; and those who felt that home work could be effectively controlled by official inspection were balanced by those whose opinion

was that inspection and control of labor in homes could never be anything but a hollow form.

State Senator Benjamin Antin presided over the meetings in the absence of State Industrial Commissioner Bernard Shientag, chairman of the Industrial Committee of the New York State Commission to Examine Laws Relating to Child Welfare. George A. Hall, executive secretary of the commission, presented a summary of the investigation just completed.

MR. HALL'S REPORT

Fifteen hundred and ninety-four of the families visited in New York City had children between the ages of 5 and 15, Mr. Hall said. Nearly one-fourth of these used their children in home work. More than 79 per cent of the 535 children reported working by the investigators were under 14 years of age, while 35 per cent were 10 or less. Most of the parents were foreign born. Ninety-one per cent of the children were found working on men's clothing, artificial flowers, embroidery, and bead work.

All but 16 per cent of the families visited were in houses licensed for home work by the State Labor Department. Conditions as to cleanliness of the rooms where the work was done were found satisfactory in most of the houses. Most of the families carried on their work in the kitchen.

Extensive overcrowding was found among home workers; in fact more than half the persons in the families visited were living under conditions below the standard generally accepted as normal (one and a half persons to a room). More than three-fourths of the families were living in old-law tenements, which were built without the arrangements for light and air required in tenements under the new law.

The earnings for this work were universally found to be amazingly small for the amount of time spent. The average adult working alone earned about 27 cents an hour at home work, while the returns from the work of one adult and two children all working together were only 26 cents an hour. In short, the woman who worked alone usually earned more than the one whose children helped her.

The children, on account of compulsory school attendance, could average only two and one-half hours' work a day during the school term—although 117 of them worked from three to ten hours each day. Half the grown-ups worked seven or more hours a day.

LEGISLATIVE EFFORT UNDETERMINED

Mr. Hall's report contained no recommendations as to legislation, as he stated that he desired to get a composite of the opinions of various agencies before deciding on a bill.

Jean MacAlpine Heer and Marion M. Willoughby, who have represented the National Child Labor Committee in this investigation, gave testimony as to conditions found in the homes they had visited. Many of the true incidents they reported have appeared within recent months in *The American Child* under the head, "Snap Shots from the Tenements."

Several school principals and visiting teachers told of the difficulties of getting children to attend school regularly because of the home work required of them. Miss Emma Haggarty, principal of a public school in an uptown Italian section, said that their visiting teacher had found a number of cases of children who were working on flowers or trousers while sick in bed with contagious diseases.

James L. Gernon and Daniel O'Leary of the State Labor Department emphasized the great decrease in the amount of home work during the last ten years, as well as the improvement in the conditions under which it is done.

From the mass of newspaper notices of this hearing, we are reprinting an extract from an editorial in the *New York Sun:*

> These facts being established, action would seem, on superficial examination, to be simple and easy. Child labor at least should be stopped. It is against the law. Nothing is needed but enforcement of the law.
>
> But common sense and experience show that enforcement of the law under present conditions is practically impossible. Inspectors by the thousand would be required to watch the home work that goes on in New York. As long as the work is sent to the home, part of it will be done by the children.
>
> Obviously the remedy is to cut off the home work. This can be effected by legislation dealing with the employer instead of the employee. By cutting off the tenement from the factory at the factory gate, piecework could be reduced to a negligible amount.
>
> Some such action seems inevitable. Doubtless it will cause suffering, for many widows are supporting their families in part by what they can do at home, and in large families wives and daughters doubtless find piecework a valuable resource. But the work is so poorly paid, so difficult of regulation, and is carried on under such bad conditions, that it must be radically changed or abolished. To change it seems impossible. And while the adjustments following abolition would be painful in many cases, in the end the poor and the public would both be gainers by them.

REPORT ON JERSEY ENFORCEMENT

The hearing held in Newark, N.J., on January 7, was concerned chiefly with the reading by Deputy Commissioner Charles H. Weeks of his report on the enforcement of home work and sweat shop laws in New Jersey from June 1 to December 1. Mr. Weeks reviewed the numerous happenings in New Jersey which have received considerable

attention in recent issues of *The American Child,* and concluded his report with the following recommendations:

> It has been clearly demonstrated that there should be several changes made in Chapters 176 and 229, Laws of 1917. These laws should be so amended that no manufacturing of any kind would be allowed in homes unless the manufacturer, contractor, or person giving out this work is a responsible party and subject to the laws administered by the Department of Labor.
>
> A manufacturer, contractor, or persons giving out home work should be held responsible for child labor conditions. If a child is found employed in a home on any goods furnished by any such manufacturer, contractor, person, or persons, they should be prosecuted under the provisions of the Child Welfare Act.
>
> The manufacturer, contractor, person, or persons giving out home work should be responsible for the licensing of the homes to which the work is given.
>
> Any person, firm, or corporation giving any kind of home work to a home that is not properly licensed by the State of New Jersey should be prosecuted.
>
> The term of a home work license should be extended from six months to one year, and the license issued with the understanding that any sickness in the home must be reported immediately to the local health officer, and that the license is subject to cancellation for violating any terms in connection with which it is issued.
>
> Contractors and agents giving out home work should be licensed.
>
> Any person or persons found indulging in home work secured from out-of-State manufacturers who are not legally licensed by the State of New Jersey should be prosecuted.
>
> Manufacturers, contractors, or persons giving out home work should be compelled to issue a monthly statement to the Department of Labor setting forth the names and addresses of the homes to which they are giving out home work.
>
> Home work on foodstuffs, dolls, and dolls' and children's clothing should be strictly prohibited or placed under strict regulation. It was the intent of Chapter 299, Laws of 1917, that it should not be permitted in any home, but as it was found to contain a technicality, it was impossible for us to enforce this law in connection with any buildings other than tenement houses.

A commentary on the actual efficacy of inspection of tenement homes by the Labor Department was made by Rev. Corrado Riggio, director of the Italian Department of the Jersey City Goodwill Center, whose interest and initiative were so largely responsible for arousing New Jersey to the evils of child labor in home work last summer.

Mr. Riggio stated that when he has occasion to visit Italian families in their homes, his knock at the door is frequently greeted by mysterious sounds from within, followed by the opening of the door just a crack to inquire the business of the visitor. Then when his identity is recognized by the inmates, he is accustomed to hear some such

remark as : "Oh, it's all right, mama! It's only Mr. Riggio," and then Mr. Riggio is free to enter the apartment where the family is engaged in home work.

FACTS YOU SHOULD KNOW ABOUT CHILD LABOR

SENATOR MEDILL MCCORMICK

Taken from an article, "Children in the Market-Place," in the *Pictorial Review* for February, 1924.

Do you know that since the Supreme Court in 1922 declared the child labor law unconstitutional child labor in the factories, fields, and canneries has increased at an alarming rate?

Do you know that the increase in eleven cities is 57 per cent., in fourteen cities 24 per cent, in five cities 100 per cent, while in others it has run up to 800 per cent?

Do you know that in Waterbury, Conn., nearly eight times as many children received work permits in 1923 as in 1922?

Do you know that in Manchester, N.H., more than five times as many children are at work as there were a year ago?

Do you know that working in the beet-fields makes the backs of little boys and girls crooked, and that in two counties alone in Colorado there are 715 children under 6 years of age and 1,400 between 6 and 16 at work in the fields from eight to ten hours a day for weeks at a time?

Do you know that in the anthracite mining district of Pennsylvania many children of 13 and 14 years of age have taken their place as full-time wage earners?

Do you know that the child mortality rates are distressingly high in this same district?

Do you know that in Louisiana in the oyster and shrimp canneries children of 8 and 10 and 12 are working from 6 o'clock in the morning until 10 o'clock at night?

Do you know that in North Carolina boys may enter the mills at 12, and boys and girls between 14 and 16 may be employed eleven hours a day?

Do you know that in Georgia orphans or children of widowed mothers may work in factories at the age of 12 and may be worked sixty hours a week, and that after they are 14½ they may legally work all night?

If you do not know all these facts and figures—and they are only a drop in the bucket—it is about time you did.

If you have pity of heart and wisdom of spirit, help the children of the Nation to escape from the toils of the exploiter. Support the McCormick Child Labor Amendment, which will give Congress power to erase from our national record the black mark of child destruction. . . .

CHILD LABOR

Extracts from article, "Dr. Pritchett, Dr. Butler, and Child Labor," in *School and Society*, November 8, 1924.

SWEATSHOPS STRADDLE STATE LINES

Do they mean to say there is no need of national encouragement, when right in New York there has been a 12 per cent increase in 1923 over 1922 in the number of child laborers 14 and 15 years of age? It doesn't look much as if these sweatshops are reforming when we observe that just across the State line from them, according to a recent survey of the New Jersey Department of Labor, the evil was found to persist in most shocking form.

A MENACE TO THE CONSUMER

In Newark and Jersey City alone nearly a thousand children were found doing contract labor at home under sweatshop environment. This home work had been shipped from New York to be done by children in New Jersey because it could not be handled so well under New York laws. Another reason for Federal regulation is that both states were practically impotent in the matter. The employers dodged behind State laws in crossing back and forth. Those who gave out the work resided in New York, the children who did it resided in New Jersey. These children, many of them tubercular and otherwise diseased, were making socalled sanitary powder puffs, beading dresses, assisting with dolls' clothes and working on toys, all of which were to bear the proud label, "Made in America." Their work was found to be in the most filthy surroundings and the product a menace to the consumer. In 1920 there were over forty-seven thousand child laborers in the State of New York in non-agricultural occupations and 2,000 of these were receiving aid from the Compensation Act for injuries received in the shop and factory.

THE FUNDAMENTAL QUESTION

. . . Will not both the North and South see that this is a question of child exploitation rather than one of states' rights? Should there not be intelligent limits, in whatever State children live, to their employment in mills, factories, canneries, mines, and quarries at least —limits below which no industry and no State can safely go?

NATIONAL REGULATION NECESSARY

It is true that one State has remedied one point and another State has done something else, but it is surprising how small the

gain in fifty years the country over. It is alleged that capital is now going from northern states that have slight restrictions into factories in certain southern states, where cheaper child labor is available. This is a terrible sacrifice for any State to make for industrial growth and prosperity, but it is the price which some of the other states have paid for years to get and hold the right to employ children. There is so much of this industrial competition between the states that it would require another fifty years to secure uniform and satisfactory regulations through the Nation. Federal help is needed to hasten the adoption of higher standards and thus prevent the harm that would otherwise come to thousands and thousands of children during the next half century.

LITTLE GYPSIES OF THE FRUIT

By Arthur Gleason

From *Hearst's International*, February, 1924.

California weather had always been ready for the children. Grain gave way to fruit. Fine roads were made. Cheap motor cars were built. The war came with the men away and the call to women and children to fill up the ranks of necessary labor. The war ended, but fruit spread. House shortage and high rent are driving many families to tents, and the climate permits such housing in crop areas throughout the year. So beauty and need and modern invention have combined to betray the children. The pied piper of the harvest leads them a long dance.

These families following the fruit have seized the imagination of a few State officials. Will C. Wood, Superintendent of Public Instruction of the State Department of Education, talked with me of these groups in never-ending motion. He said:

"Our fruit industry is creating a wandering population who return to San Francisco and the bay cities and to Los Angeles for two or three months in the winter, but in many cases are out again by February or March for the asparagus in the delta regions. Then they go through the remaining months of the year with cherries, apricots, peaches and pears, prunes and grapes, tapering off to raisins, cotton, oranges and lemons, hops and tomatoes, all the way to onions, which will carry the sequence into the winter. If any time is open, rice, beans, rhubarb, figs, grapefruit, berries, beets, cantaloupes, and apples are waiting.

"It is the American drama of 'The Covered Wagon,' and that is now giving place to the Ford. These people spend nine months of the year on wheels, with their children kept out of school. The children could not fit in anywhere in city schools. These migratory children will grow in number as fast as the fruit industry grows. New racial groups will enter the stream.

"Child labor and illiteracy are tied together. In school attendance and in illiteracy of the foreign born and of the native born, California is farther down the list of states than we should like to be. With the native born, it is in part due to an influx of colored people and white people of the casual labor group. But even when we explain it, we do not wish it. Child labor means illiteracy. Illiteracy with us is not a city problem. In our cities, the children are enrolled in school and attend. It is a rural problem. The country, in the agricultural sections, is where our illiteracy is found, and that is where migratory child labor is increasing.

"I am in favor of a constitutional amendment on child labor that will set minimum standards. I should like to see a Government department that would take in all the child-saving agencies. There are many problems of the child, and many isolated bureaus. It is the business of Government to look after humanity as well as to give property recognition."

The area of migration is the whole State. Lumber draws the families into the mountains. Fish canneries call them to the coast. Railroad construction dumps them into deserts. But the main attraction is the pull of the fruit; twenty-four crops through thirty-eight of the fifty-eight counties—two crops for every month of the year.

If we looked down on California from an eminence, we should see a picture like that of the winds in old geographies. We should see the migratory people moving in swirls. One swirl goes out from the bay cities to the delta of the San Joaquin and Sacramento rivers, and the asparagus islands, and curves down the path of tomatoes and grapes into the winter of cotton. It is almost a circle, but from its rim there is a throw-off and a fresh impulse of motion into the hops of Mendocino.

Another swirl of migrants proceeds from Los Angeles to the land of sweet potatoes, and on through the unfolding of the warm valleys.

The period of migration is the whole year. Every month shows a demand for sudden seasonal labor in excess of the local supply. No industry using these families can furnish employment throughout the year. There is no work except in citrus, between the pickings. The harvest calls them and then waves them on to the next ripening. Families crowd into a district without warning for an undetermined period. The town of Lindsay woke up one morning to find that families, comprising 500 persons, had arrived overnight to work in oranges. In a few hours Santa Paula lost 145 children, when walnut picking began in the surrounding country. That was 17 per cent of the school attendance.

Once the railroad work train, full of Mexican children, sidetracked near the schoolhouse in the Edison district. The children were eager to go to the local school. Morning after morning they arrived on the school grounds at 6 o'clock, three hours ahead of time. The teacher

found them docile and intelligent. The thing they liked to do best was to wash their hands over and over under the running water of the faucet, with lots of soap lather. They had three weeks of good times in the school. Then the work train pulled out for Bena, and they never saw the Edison school again.

On the work train was a Mexican girl, Armida, 13 years old, who had gone to school in Arizona up to the fifth grade. She got permission from the boss, and fitted up one end of an empty box car with a table and benches. There she held school each day from 9 to 4. She taught the children everything she knew. She had no books except a few fragments and strays. On the table she had a stout strap, and she dominated boys bigger than herself, and she taught them. Whenever the work train drew near a school, she saw to it that the children went. The train is now in Santa Barbara County, and a telegram has come to the State Department of Education asking what is to be done with the crowd of children who want a school.

The Southern Pacific Railroad has reported 430 children under 16 years on extra construction gangs in the various divisions of California—from one to ninety in a gang. They are whirled across the State, as the condition of roadbed summons them. They float in space in perpetual motion. They differ from the children in the crops only in the speed of their transportation.

Following the fruit does not attract pioneer American men accustomed to heavy work. They won't do stooping. If the father shakes the tree, it is the mother and children who pick up the walnuts. The migratory families were Spanish, Portuguese, Mexicans, Italian, Russian-German, Japanese, Hindoos, negroes, and whites from the cotton fields of Arizona, Oklahoma, and Texas. A few California Indians drop down from the mountains to work in grapes and hops.

In one walnut camp I visited, during the week they had been robbed by gypsies, a baby had drunk lye, a man had deserted his wife, and two men had come to night school drunk. This was a quiet week.

A group of Rumanian gypsies pick apricots, hops, grapes and prunes. They have a trained bear, and when they are not agitating strikes, telling fortunes, or picking fruit, they give a show.

The families flit wrom crop to crop by every kind of conveyance. Moving is the easiest thing they do. They will start with anything that will acquire motion—an old horse and wagon—they save and buy a secondhand Ford; then they gradually work up through cars until they get a truck carrying supplies and a tent. A man who has a family and a truck is fixed for life; he has his home and he has his income-producing labor group; he can always get work. Yesterday, on the highway from the desert, I saw a truck family of Mexican migrants riding in for the walnuts. The father and mother sat in front. In the long deep body of the truck lay heaps of tumbled bedding—a white dog and several small children on top. They settle anywhere. There is

no rent. When they get to that economic stage, they are apparently perfectly happy. Unfortunately, their prosperity makes them eager for more. They are oftentimes the ones who will try to evade the education laws.

As they move to the new crop they camp in the wagon, or the machine, or in a tent, or on the ground by the roadside. When the Spanish families go from the bay cities by river boat to asparagus, they are disembarked at various landings through the chilly night. A group will sit on the levee huddled together against the salty river wind from 1 o'clock in the morning till the sun comes up, and the field boss arrives to shoo them off to their camp.

I have traveled the trail of the migrants for 200 miles, and in one day have seen some twenty-five families with over a hundred children coming into Kern County. Banners hang high from tree to tree across the road—"Cotton Pickers Wanted." One family came along in a large covered wagon, the canvas stretched over a wooden frame-work, home, belonging, and transportation all in one box. It was a flash of pioneer days. But pioneers arrived and settled.

The traveling equipment of the majority of migrants is an old five-passenger machine, which breaks down easily. They can't get much in it besides the family. When they are not at work, the man is always trying to fix up the machine, the mother is doing some washing, and the children are just "around." They talk of auto camps as other people talk of hotels.

Down the Imperial Valley the Mexicans usually have an old spring wagon, with two horses, or one. They go as the wind blows them. They don't know themselves that they are going, but suddenly they are gone. By horse and wagon, nine days on the road from one crop to another is not unusual. . . .

The practice is to plan the school year according to the crops. Napa County begins its fall term on August 1. Five weeks later, schools are closed in prune districts for the period of picking, and again, later, in grape districts for grape picking. In Santa Clara and San Joaquin valleys, where heat prevents such early openings, the vacation is prolonged and time made up at Christmas and Easter.

Such adjustment does little harm to resident children, but for school attendance of migratory children it is fatal. It means as families go from crop to crop, the children go from vacation to vacation, and no enforcement is possible. A legal vacation nullifies the child labor law in agriculture.

Sixty-seven children straggle into the Hayward School through six weeks of late autumn, like fashionable arrivals at the opera.

On one ranch with sixty-six migrant children, nearly all are retarded. Children of 14 would have to go into the first grade along with 6- and 7-year-olds.

Russian-German families from San Francisco have been brought

into Lake County for the string-bean crops and these Russian children are sometimes wild. When they arrive the whole community commences to lock things up. Those children know that. They know the community looks upon them as thieves, and in a few cases they proceed to be thieves. . . .

This use of children in agriculture is not because they do the work better than adults. Child labor is used because it secures the service of the father at a rate of pay which would not attract the adult single worker.

These migrant families move the crops of California. There is not enough resident labor by many thousands to clear the trees and the fields. Small hands have helped to pick each pile of native wealth through thirty-eight counties.

I have studied in detail 315 migratory families, which included 1,200 children, and have talked with groups of children numbering 100. I am under strong obligation of gratitude to the California State Department of Education, specifically to Will C. Wood, Superintendent of Public Instruction, and to Miss Georgiana Carden, State Supervisor of Attendance. They have given their time, and placed their valuable unpublished State records of the migratory children at our disposal.

California has twenty-four crops in thirty-eight counties, and the good sun shining over all. The children keep on swarming into vineyard, ranch, plantation, and orchard.

With land capitalized as high as $3,000 per acre for prune raising; with transportation and power, and, in many instances, water, held in private monopoly, on the basis of all the traffic will bear; with the agriculturists and orchardists paying as high as 12 per cent for money, there is little left for labor after capital takes its toll. The burden of it falls upon the women and children. . . .

ARE WE POWERLESS TO PROTECT OUR CHILDREN?

SENATOR MEDILL MCCORMICK

United States Senator From Illinois

From *Congressional Digest*, February, 1923.

We Americans have been confidently conscious of our material and social progress.

We have been gratified to believe that here there was for every child a greater opportunity than elsewhere in the world; that here there was a higher average well-being, and a greater average intelligence than elsewhere in the world. Now we find ourselves checked and shocked by the knowledge that as a people we are powerless to

assure to the children of America the freedom from drudgery, from industrial slavery, necessary for their health, their growth, their schooling, and their future citizenship.

It is not pleasant to realize that in half a dozen states there are between 15 and 20 per cent of the citizens who are illiterate. It is disconcerting to read that in a dozen European countries the average literacy of the people is higher than in the United States. We must ask ourselves if we can any longer consent to conditions which make it possible not merely for England and Germany to have more literate populations than America, but for small and poor states like those of Scandinavia to do so.

There is none of us present today, I imagine, who cannot recognize the weight of argument against the centralization of authority in Washington and against a too frequent amendment of the Federal Constitution. But I submit that the Federal Government has acted upon matters less important, less pervasive of our whole life, than the well-being of American childhood.

I think that no one will deny, first, that during the ten years in which Federal legislation was in force there was a sharp diminution both in number and in per cent of children employed, and that since the unhappy decision of the Supreme Court, not only has child labor increased, but that the conditions under which children labor, have become worse.

There will be few voices raised to defend child labor in principle, precisely as at one time there were few to defend slavery in principle, although many defended it in fact by their extreme assertion of State sovereignty and State rights. We seek an amendment to the Constitution because we cannot act under the Constitution, as it has been interpreted by the Supreme Court. We believe that the problem of protecting childhood is national, aye, that the necessity of protecting childhood is national.

I am not willing to describe the purpose of a child labor amendment as humanitarian, although it is that. It is much more. It is social; it is political; it is economic; it is a measure necessary to the national defense, not primarily to raise men to bear arms, but to make it certain that children may grow to manhood and womanhood, grateful to the land of their birth, cherishing its ideals and its institutions, schooled, trained, mentally and physically, to discharge their duty as citizens to the State, and as parents to the generations which must follow them.

We seek an amendment in terms broad enough to permit Congress to legislate today to meet conditions existing today in fulfillment with the demands of the public conscience today, and in terms which will permit Congress to legislate in like fashion twenty years from now. This we do because of our concept of American society and because

of the nature of child labor.—(Extracts from address before the New England Child Labor Conference, January 18, 1923).

WHAT CAN CONGRESS DO WITH OUR CHILDREN?

By Francis W. Coker

Department of Political Science, Ohio State University

From *The Agricultural Student* for December, 1924.

In considering this proposed addition to the powers of Congress, several preliminary considerations should be kept in mind. In the first place, experience has abundantly shown that a constitutional grant of legislative power should be phrased in general terms. It is not practicable to indicate in a constitutional provision the exact scope of a power conferred or the particular methods whereby the power should be exercised.

If we tried to enumerate in the Constitution the particular vocations in which Congress is empowered to regulate child labor, or to specify just how Congress is to regulate such labor, the result would be that every time we might in the future desire to make any change in the scope or methods of such regulation we should have to resort again to the elaborate process of constitutional amendment. By making the grant in general terms, legislation within the field indicated can be adapted to the needs of the time. Thus, when the framers of the Constitution decided to vest Congress with the power to regulate interstate commerce, they said, in very general terms, "Congress shall have power to regulate commerce among the several states"; they made no attempt to specify what forms of interstate commerce Congress should regulate or what methods Congress should use in regulating such commerce. As a result, Congress has been able to modify from time to time the scope and methods of its commercial regulation in conformity to changing conditions.

POWER RESTRICTED TO CONGRESS

In the second place, it should be understood that the proposed amendment does not prohibit anything. It confers upon Congress a power to prohibit. If the amendment is ratified no form of child labor will be in any way restricted except in so far as our representatives in Congress decided to restrict it.

In the third place, the amendment does not introduce a governmental regulation with which we have had no experience. Every State legislature now possesses the power which this amendment

purposes to confer upon Congress. The purpose of the amendment is simply to enable Congress to act, in the protection of children, in cases where State legislatures neglect to act or are unable to act effectively.

COURTS SAFEGUARD LIBERTY

Finally, it should be understood that when a power is conferred upon Congress, Congress is subject, in the exercising of that power, to all the familiar constitutional safeguards which protect private rights against unreasonable interference. Among these safeguards is that of the amendment to the Constitution, under which Congress can make no law regulating property or liberty save according to "due process of law"; this means that the courts at all times will have the power to prevent Congress from using its power over child labor in such a way as to make regulations which are unnecessary and arbitrary interferences with individual liberty.

The questions at issue then are whether or not there is need for national regulation of child labor and whether or not there are serious dangers in national regulation of child labor. No one who has paid any attention to the records of the facts in the matter needs to be convinced that there are serious evils in the existing conditions of child labor, that thousands of children today are engaged in forms of labor that are harmful to them. To cite one example, 200,000 children under 15 years of age are now working under unhealthful conditions in factories and mines—this in America, where we do not need the labor of children in such occupations.

CHILDREN NEED PROTECTION

Many of the forms of labor in which children are engaged today create permanent effects which handicap them in their later years, arresting their normal developments of body and mind. Within the last twenty-five years a considerable dimunition of child labor in injurious work has been brought about through State legislation. State legislation alone, however, is inadequate. Manufacturing and mining interests prove strong enough in some states to prevent adequate legislation or effective enforcement of legislation. The problem of State legislation is rendered peculiarly difficult by the argument, made by interests opposing effective legislation in the states, that the products of a State which enacts legislation cannot compete successfully with the more cheaply produced products of states with backward legislation.

The evil of injurious child labor is a national evil, deserving to be dealt with through the national Government. We have a national interest that the children in all parts of our country shall grow up

to manhood and womanhood physically and mentally equipped to discharge their duties, in peace and in war, as vigorous and intelligent citizens. If we do not protect our children from labors beyond their strength, we are not doing all that we can to create conditions under which children are likely to grow up as citizens devoted to their country and qualified to show their loyalty to its institutions and ideals.

AIMS AT MILL LABOR

The evils of injurious child labor are national evils that can be met by national action without danger to reasonable individual liberty. There is no reason to fear that Congress would use the power, which this amendment would confer, by forbidding forms of work generally considered to be harmless or positively beneficial to a child. The two child labor laws which Congress has passed (set aside by the Supreme Court) do not indicate that there is any such danger.

These laws were aimed at child labor in mills, canneries, workshops, factories, and mines; they are intended to make impossible the employment of children under 16 years in mines, to make impossible the employment of children under 14 years in the other industries named, and to limit to reasonable hours the employment of children under 16 years of age in such industries. The existing laws of a dozen or more states, including Ohio, have standards equal to or higher than the laws which Congress enacted. We have a more important assurance against oppressive or unreasonable use by Congress of a power to regulate child labor. This assurance lies in the fact that even with the adoption of this amendment no restriction could be imposed upon child labor except with the approval of a majority of representatives, a majority of the senators, and the president, or, in the absence of the president's approval, with the approval of two-thirds of the representatives and of two-thirds of the senate. Is not this an adequate guarantee that whatever would be done under this amendment would reflect the prevailing sentiment of the people in the states from which the senators and representatives come? What possible motive, for example, could Congress have for enacting restrictions interfering with the work of children on the farms of their parents? There will be nothing to tempt Congress to act unreasonably, ignoring the reasoned convictions of the people who inhabit our vast agricultural regions. Moreover, as pointed out above, Congress would be subject in this, as in everything else that it does, to the constitutional restrictions of due process.

FARMER GETTING HIS SHARE

There should be no attempt to becloud the issue by cries of "centralization" or "paternalism." Is there more centralization in national regulation of child labor than in national regulation of coöperative marketing or rural credits? The cry of paternalism and centralization comes with peculiar ill-grace from farmers at this time. President Coolidge last summer, in reviewing the achievements of the present administration, said, "We have passed fifteen laws in aid of the farmers"—fifteen laws in three and a half years, by the central government; he promised further legislation in aid of the farmers; the farmers are demanding further legislation. The farmers are right in looking to the national government for aid in the solution of such of their problems as cannot be solved by separate State action. Are the economic interests of the farmers of more importance—of more national importance—than the mental and physical welfare of the children?

In supporting the proposed child labor amendment, we shall, I believe, be responding not only to a worthy humanitarian impulse, but also to a valid economic impulse. A child who is denied the opportunity for healthful activity and driven into unhealthful activity, who is deprived of the advantages of healthful surroundings and compelled to spend a considerable part of every day in unhealthful surroundings, is most likely to become, as an adult, an economic burden to the community, or at least an economically less useful member of the community. The cheap labor of children in mines and factories and some other industries is not cheap in the long run. Society has to pay a heavy price for the profits of those who exploit the cheap labor of children.

PROMPTED BY IMPULSE

In supporting the proposed amendment we shall, I believe, be responding to a patriotic impulse. We allow without challenge the Federal Government to act upon matters of less importance to our national well-being and conscience than this. The proponents of this amendment urge that we give as open-minded and considerate attention to the future interest of our children as we give to the interests of any other essential group in the nation. Are we as a nation to be argued out of dealing with a national evil through the national government by the imaginary evils of paternalism or centralization? Are we really one nation unless we are willing to establish minimum national standards of child welfare?

President Coolidge is consistent enough to recognize that a government which can, without undue centralization or paternalism, come to the aid of the farmers of the nation, can also, without undue

centralization or paternalism, be entrusted with the task of giving reasonable protection to working children where such protection is neglected by their own states. So he has made clear on several occasions his approval of the proposed child labor amendment. I hope that the republicans, democrats, and progressives in the State Legislature will follow the suggestion of the recent national platforms of their respective parties and consider the amendment from the high plane set by Mr. Coolidge in the following words, in his speech last July accepting the nomination for president:

"Our different states have had different standards, or no standards at all, for child labor. The Congress should have authority to provide a uniform law applicable to the whole nation which will protect childhood. Our country cannot afford to let anyone live off the earnings of its youth and tender years. Their places are not in the factory, but in the school, that the men and women of tomorrow may reach a higher state of existence and the nation a higher standard of citizenship."

THE PROPOSED TWENTIETH AMENDMENT TO THE FEDERAL CONSTITUTION

By Bruce M. Watson

Published by the Public Education and Child Labor Association of Pennsylvania, 311 South Juniper Street, Philadelphia, Pa., 1924.

. . . They tell us that the child labor amendment will take away the power of the several states to pass and enforce child labor laws and will discourage the states in bringing up their own standards. Fortunately, there has been experience of the effect of Federal child labor laws. During the period of operation of those laws, the states made greater advancement in the protection of working children than during any other period; the State labor officials welcomed the help of Federal agencies; the federal officers did not go into the states where standards equal to Federal standards were enforced, and there was complete coöperation between State and Federal agencies.

The National Association of Government Labor Officials, representing most of the states of the Union, on May 4, 1923, passed a resolution urging Congress to submit a child labor amendment, and a year later in Chicago this same body passed a resolution urging the ratification of this amendment.

At the child labor conference in Washington in May, 1924, one after another of the chief labor officials of the country—those from Wisconsin, New Jersey, Pennsylvania, Virginia, Louisiana and other states—testified to the splendid co-operation between State and Federal officers in enforcement of the Federal laws.

They tell us that the Constitution is a sacred document as handed down to us by the fathers, and that if this amendment is ratified the very structure of our government will be jeopardized. For the assurance of those who honestly fear that the Constitution is in danger of harmful mutilation, it may be pointed out that the first ten amendments were made almost immediately after the original adoption of the Constitution and are accepted by everyone as essentially a part of the original Constitution and altogether desirable. The next two came very soon afterward and are altogether acceptable.

Now, in 120 years, with all the scientific progress and the social and industrial revolution of that period, only seven amendments have been made. This record with the added assurance that comes from the safeguards thrown around the process of amendment—a two-thirds vote of each house of Congress and a later ratification by three-fourths of the states—does not warrant a fear that the country will go on a spree of constitutional amendment.

Some people tell us they don't like the eighteenth amendment, and therefore they are against any kind of amendment. That position is as narrow and illogical as to say that because they don't like the tariff law they are against the passage of any more laws by Congress.

They tell us that it will create a huge body of high-salaried enforcement officers who will swell enormously the public payroll and will swoop down upon the defenesless states, taking from them the rare privilege they now have of enforcing the child labor regulations. History refutes this. In the enforcement of the child labor act of 1916 by the Federal Children's Bureau, only fifty-one employes were engaged, and the total appropriation for this purpose for 1919, made just before the act was nullified by the Supreme Court, was $125,000. Instead of interference with State authority, there was complete coöperation, and State legislation and enforcement were stimulated rather than retarded.

They tell us that if this amendment is adopted Congress will immediately pass a law prohibiting every person in the United States under 18 years of age from doing any work; that if this amendment is ratified it will be impossible for Johnny to milk the cow and hoe the garden or for Mary to wash the dishes and feed the hens; that "it will establish enforced loafing of the entire population of the country under 18 years of age."

Thousands of good citizens who either have never seen the amendment or have never read it discriminatingly are under the impression that these statements are true.

WHAT IS THE REAL TRUTH?

In the first place, this amendment, if ratified, will not of itself change the status of any child in America. It will not make a lawbreaker of any employer who is now employing children legally or

any child now legally employed.

The sun will still rise in the east and set in the west, and every man, woman and child in America will go on about his business as he is now doing until Congress has passed a child labor law in exercise of the power delegated to it by this amendment. When a child labor bill is introduced in either house of Congress it will be referred to a committee. The committee will hold public hearings at which everybody who so desires will have a chance to be heard pro and con. The committee may modify the bill in light of the testimony given at the hearing. It may report the bill adversely to the house in which it originated. In that case the bill is probably dead. It may report the bill favorably, and in that case the bill may be placed on the calendar for a certain day, when every representative or senator in that house may express his views upon it. The bill may be amended again. It may be voted down or it may be passed, in which case it must be sent to the other branch of Congress and go through a similar process of debate and amendment. Then both houses must concur upon the exact form of the bill. Then it must go to the president and be signed by him or vetoed and repassed by a two-thirds vote of each house before it can become a law. During all this process the senators and representatives will hear from their constituents through the public press, through letters, telegrams, and even personal appeal. Their ears are always at the ground to sense public opinion. That is the great safeguard in a republic.

Now, is it likely that any radical child labor measure will run the gauntlet of all these crossfires of influence and finally be foisted upon an unwilling public in the form of a law?

You may believe that all congressmen are politicians; that they are grafters; even that they own shares of oil stock; but you will never charge that they are an aggregation of half-wits; and none but a Congress of imbeciles would ever enact "a law to forbid the employment of any person in the United States under the age of 18," or a law that will establish "enforced loafing of the entire population of the country under 18 years of age."

What would happen politically to a congressman who had voted for such a bill, or to a president who had signed it?

Every one of these congressmen knows, and every one of their constituents knows, that children ought to work at a proper age at suitable tasks and in the right way. Nobody has ever asked for a law that will prevent this. No State has ever proposed legislation restricting the employment of children on farms by their own parents, and no Federal Congress will take such a step. And yet the opponents of this measure are insidiously spreading this propaganda among the farmers of America and trying to make them believe that the ratification of this amendment means an invasion of their homes.

WHAT IS LIKELY TO BE THE SCOPE OF FEDERAL CHILD LABOR LEGISLATION IF THIS AMENDMENT IS RATIFIED?

No one, perhaps, is better qualified to speak on this subject than Representative Israel T. Foster, of Ohio, sponsor of the child labor amendment in the house of representatives. Mr. Foster is not a long-haired reformer nor a simpering sentimentalist. He is a hard-headed lawyer, a former district attorney of his own county in Ohio, and now an influential member of Congress.

Here is what Mr. Foster said in a public address soon after the adoption of the amendment resolution by Congress:

"Maximum Hours of Night Work

"The principles of the eight-hour day and six-day week and of the prohibition of night work for minors under 16 employed in mills and factories, which were written into the first and second Federal laws, would probably form an integral part of a new Federal statute, although it would seem desirable, in addition, to limit the working week to forty-four hours, thereby insuring to the children a Saturday half-holiday, as is done by the new child labor law in Virginia. The forty-four-hour week, in fact, is beginning to be recognized in progressive industries as a desirable minimum not only for children but for adults.

"If, as has been suggested, the minimum age standards are extended to cover a wider range of occupations than was possible under the former Federal laws, any provisions enacted relating to the maximum hours of labor and to night work should likewise apply to a larger group of occupations.

"Educational and Physical Standards.

"The need for an educational minimum was especially brought out while the first child labor law was in effect. In the five states in which Federal certificates of age were issued by the Children's Bureau (four of which are still, in 1924, among the states having no education minimum, and one of which has no educational requirements other than a certain amount of school attendance in the preceding year) more than half of the 19,698 children receiving Federal certificates (56.2 per cent) were in or below the fourth grade, 8.2 per cent had not gone beyond the first grade, and 188 children had never been to school at all. On the other hand, only 2.9 per cent were in the eighth grade and 1.3 per cent in the ninth or higher grades when they applied for certificates.

"In addition, the record of the United States as to illiteracy compares unfavorably with that of other civilized countries. According

to a statement published by the National Education Association, "the latest figures made available by Mrs. Cora Wilson Stewart, chairman of the Illiteracy Commission, show that the United States ranks tenth among the advanced nations of the world in its percentage of illiteracy."

"Enforcement of a physical fitness standard, it is true, presents greater administrative difficulty. Great progress, however, has been made in recent years in the child health field, and as the need of protecting the health of young people during the adolescent period is so obvious, it is to be hoped that such a standard can be included, Such reports of physical examinations of children going to work as are available indicate that from approximately one-third to two-thirds of the children examined have physical defects which should be corrected before the children go to work.

"Administrative Provisions

"Effective and sincere coöperation of State officers in enforcing the Federal standards can, it is believed, be secured if the Federal act makes possible acceptance of work certificates issued by State authorities and allows the State officers to initiate prosecution under the Federal law if they desire to take certain cases into the Federal courts. This was possible under the two former acts. The Conference of State Labor Officials which met last week in Chicago, has again gone on record as to the usefulness of such resources both in increasing respect for existing State standards and in educating the public to the importance of strengthening State machinery.

"State experience has demonstrated that only if no child is employed without a work certificate, and if no work certificate is issued except upon reliable evidence that the child is legally qualified to work, will the age, education, and physical standards of a child labor law be evenly and uniformely enforced? With a good certificate system, inspection serves as little more than a reënforcement of respect for the certificate by both employer and child. To avoid the expense and inconvenience to the child, the employer and the government, of a double certificate system, it is important that the law we are to pass when this amendment is ratified should make possible that the Federal authorities may, wherever possible, accept State certificates for the purpose of the Federal act.

"In other words, I see in this amendment the foundation for Federal and State co-operation in the protection of American children. The resources of both will not give to American children more than we owe them."

This conservative statement by a man who is likely to have a prominent hand in drafting the next Federal child labor law should allay

the fears of those timid ones who have an honest dread of Federal oppression.

CHILD LABOR AMENDMENT AND THE FARMERS

E. C. LINDEMAN

From the *American Review of Reviews*, July, 1924.

. . . The friends of legislation which would regulate child labor have now determined that there is but one effective method for achieving the desired result, namely, the laborious and difficult one of amending the Constitution so that Congress shall have unequivocal power to regulate, limit, and prohibit the labor of children. A resolution providing for such an amendment was adopted by the house on April 26 and by the senate on June 2.

In the past, opposition to the regulation of child labor has come largely from two sources: Employers who profited from such labor and citizens who were temperamentally opposed to a strong, centralized government and inclined toward a belief in states' rights. Under the influence of a steadily advancing public opinion these two forms of opposition gradually diminished in strength. The proposed amendment has given rise to a new and unexpected opposition, namely, that of the farmers. The present political power of the agricultural population has been capitalized. Rural organizations and editors of farm journals have attacked the amendment with alarming vigor. This newer opposition was not sufficiently powerful to defeat the amendment in Congress, but it is entirely probable that its strength is being reserved for purposes of defeating ratification.

DOES THE AMENDMENT INVOLVE AGRICULTURE?

The amendment is inclusive in its terms. It makes no exceptions, but simply and clearly grants to Congress the power "to limit, regulate, and prohibit the labor of persons under 18 years of age." Obviously, under this amendment Congress will possess the power to control child labor in agriculture as well as in industry. It is this power which farmers have been taught to fear. They have, in fact, been led to believe that certain faddists purpose to go so far as to prevent boys and girls from doing chores on the farm. This is, of course, sheer misrepresentation. Work on the farm performed by children under parents' direction and without interference with school attendance is not child labor. Work performed by children away from home, for wages, at long hours and under conditions which endanger the child's health, education, and morals is child labor, whether the work be performed in a beet field or in a cotton mill.

Such agricultural labor is susceptible to legal control in the interests of the child and the community on equal terms with industrial labor. In fact, certain forms of agricultural production have become so far industrialized as to make attendant conditions indistinguishable from those which prevail in factories. Studies conducted and published by the National Child Labor Committee and the Children's Bureau of the United States Department of Labor give unmistakable proof that thousands of American children are being expolited in industrialized forms of agriculture and that this exploitation is inimical to the welfare of working children. To make exceptions for agricultural labor would be tantamount to placing a lower valuation upon rural children than upon city children. Mothers and fathers of country children will be the last to admit the validity of discrimination of this sort.

Current agricultural depression is also used as an argument against the amendment. It is a question-begging argument. Prices of farm products are not low because of under-production; on the contrary, they are low because of over-production, under-consumption, and outworn, speculative marketing system, and inadequate credits. Farmers do not need exemption from the child labor amendment to make agriculture successful, but they do need a more just economic system of production and distribution. Our agricultural economy is indeed decrepit and we are resourceless people if we must rely upon the labor of children to save farming from bankruptcy.

It is unbelievable that clear-headed farmers will be tricked into a position so false as this. They may be desperate in their efforts to find a way of escape from their present financial situation, but they will need to become far more desperate before they can be induced to trade their children's welfare for an alliance with those who place profits before human values. Farmers may be trusted to support the enlightened point of view, once they come to understand the real motives which animate the friends of child labor legislation as well as the purport of the amendment.

THE RIGHTS OF INDIVIDUAL STATES

Child labor has increased since the former Federal statutes have been invalidated. Only eight states have raised their standards since 1922, and no State has as yet reached the standard set by the previous Federal laws. When individual states enact legislation which does raise the standard, the tendency is a movement of child-employing industries towards states where laws are lax. This constitutes a manifestly unfair form of competition. Production costs may be lowered by the employment of children's cheap labor, and the industries which follow this practice are thus enabled to undersell their competitors.

The only effective means of equalizing the opportunities for the children as well as the industries of South Carolina and of Massachusetts is to provide a minimum standard which applies equally to both states. This is precisely what the amendment proposes to do. The second section of the amendment specifically affirms that "the power of the several states is unimpaired by this article, except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress." In other words, the Federal government is to be given the power to set a standard for all American children below which no State may go; individual states may go as far above the minimum standard as they please. In essence this implies that from the viewpoint of the Federal government the children of all states deserve an equal minimum of opportunities for growth, education and recreation—a minimum which should not be invaded by enforced labor for others' profits.

The majority of nations have already enacted laws which guarantee certain standards for industrial child labor. The draft convention of the 1921 conference of the International Labor Office of the League of Nations provides that "children under the age of 14 years may not be employed or work in any public or private agricultural undertaking or in any branch thereof, save outside the hours fixed for school attendance." Japan, Czechoslovakia, Esthonia, and Sweden have ratified this convention. If the United States government does not soon enact similar legislation it will find itself in the anomalous position of accepting and putting to work immigrant children who could not have been legally employed in their own countries.

When farmers become acquainted with facts such as the above, we may be confident that they will not allow themselves to be used as the innocent but effective means for defeating the child labor amnedment.

CHILD LABOR CALLS FOR NATIONAL ACTION

THE NEW REPUBLIC

From *Congressional Digest*, February, 1923.

Those who are acquainted with the effects of industrial labor upon growing children will not rest content with conditions as they are left by the Supreme Court decision. They will either work for a constitutional amendment which will enable the Federal Government to enact laws that are binding, or they will set about securing better laws and more effective enforcement in the several states.

The burden of proof ought to rest upon those who wish to transfer any function of the government from the states to the nation. It must be shown that the interest involved is essentially a national

interest, and that only national action will take care of it properly and adequately. Are the rights of children to immunity from industrial labor such an interest? *The New Republic* believes they are. Every intelligent person who is not blinded by self-interest knows that labor in mines and factories and shops is injurious to growing children. It is a grave wrong to the children themselves, but that may be conceived of as a matter which lies between the children and the State in which they are domiciled, if one chooses to bound his human sympathies by rather shadowy geographical lines. It is wrong to industrial society, which will pay in future ill health and incompetence, for the small present profits to the exploiters of child labor. And American industrial society is not partitioned off by State lines. It is a wrong to the nation, which depends in war upon the physical fitness and mental alertness of its young men, and in peace upon the vigor and intelligence of its citizenship.

We are one nation, but economically our states are in very different stages of development. In the older industrial states the ultimate consequences of child labor are perhaps well enough known to produce a strong sentiment against the system. In the newer industrial states that is not the case. But even in the older states there are powerful interests that have not given up the fight for child slave labor. Always they point to the fact that the products of a State which conserves the health of its children must meet the competition of the products of states which do not. Economic specialists may point out that in the long run child labor never pays, and the states that employ it will be beaten in the competitive race. But legislatures are not made up of economic specialists and the specious argument from interstate competition affects them profoundly.

The progress of child labor legislation through the State governments has been slow and irregular. The progress of efficient administration has been yet slower and more irregular. Is there good reason for believing that it will be more rapid in the future?

We believe that the case is one that calls for national action. We are not in reality one nation unless we can establish minimum national standards, most of all in the field of child welfare. We are aware of the disadvantages of a multiplication of Federal functions and the growth of bureaucracy. Therefore, although we should look to national legislation to set the minimum standards, we should favor a plan for leaving the administration in large measure to the states, with grants in aid from the Federal treasury to help support the expense.—(Extracts).

CHILD LABOR, THE HOME AND LIBERTY

From *The New Republic*, December 3, 1924.

In the current propaganda against the child labor amendment, the economics of the issue is strangely subordinated. We are gravely assured by the various resolutions committees of manufacturers, merchants, and even the National Grange, once a progressive organization, that what is at stake is our sacred liberty, the sanctity of our homes. The defeat of the amendment, according to Professor J. Gresham Machen of Princeton University (letter to the *New York Times*, November 18), would mean that "it is actually possible, despite recent indications, that American liberty and the sacredness of the American home have not yet altogether been destroyed."

The argument is simple. The child labor amendment grants to Congress the power "to limit, regulate, and prohibit the labor of persons under 18 years of age." There is nothing in the amendment to indicate that it applies only to commercial employments. If Congress chose, it might penalize the man who sets his 17-year-old son at mowing the lawn, or the woman who has her 17-year-old daughter help her with the dishes. It is no answer, say the opponents of the amendment, to urge that Congress would never do anything so idiotic as that. They are concerned with a principle. The immemorial right of the parent to train his child in useful tasks according to his own discretion is destroyed. The obligation of the child to contribute in proportion to his abilities is destroyed. Parents may still set their children at work; children may still make themselves useful, but it will no longer be by right and obligation, but by default of legislation and administrative machinery.

This is the argument that is now being repeated, with a hundred variations, throughout the United States. Its validity admits of a simple test. Does any parent in the United States now enjoy discretion beyond the possibility of legislative invasion, in disposing of his children's time and labor that it is assumed the child labor amendment would destroy? No. The states can now do everything that it is proposed to empower the Federal Government to do. If liberty and the home are destroyed when a government is in a position to step in between parent and child, they were destroyed upon the adoption of the Constitution, which did not establish the *patria protestas* in a bill of rights.

The child labor amendment does not deprive the citizen of any liberties he now enjoys. It does not involve any new attack on the home. Not in principle. But the Federal Government might in practice regulate child labor more thoroughly than the State governments do. This is at bottom the reason both for the support of the child labor amendment and for the opposition to it.

Is it to be presumed that the legislators in Washington will have the interests of children nearer to their hearts than the legislators at the several State capitols? We see no ground for such a presumption. But there are two reasons for presuming that the Federal Government would move more rapidly toward effective regulation than the average of the states.

The first reason is that the Federal Government would not need to consider the effect of a child labor law upon interstate competition. If it fixed the minimum age of factory employment at 16, all factories throughout the country would have to conform. No habitual employer of child labor could escape the law by migrating to another State. He might, indeed, migrate to Ceylon or Japan, where he would find as many child slaves as he could use. But then he would encounter the customs barrier if he tried to compete in the American market. When, on the other hand, a State Government fixes a high age limit for child labor, the exploiter of children has only to move across the nearest State boundary. He is free to ship the products of child slavery back into the State, to compete with the products of free labor. The regulating State loses business and taxable property, without any equivalent humanitarian gain. If half the states had prohibited child labor, about as many children in the United States might still be found in factories, concentrated, to be sure, in the states of slack laws.

The other reason why the Federal Government would be more likely to act than the states, is that the dilution of the citizenry with physical and mental defectives which always attends the exploitation of children, is more manifestly a Federal than a State concern. We are an excessively migratory people. Probably a majority of those who are now minors will spend the better part of their lives outside of the states in which they were born. Child labor notoriously involves an immediate profit at the cost of the efficiency of the adult worker. Under existing conditions the profit is too often enjoyed by one State while the cost is borne by another. The Federal Government would enter the profit and the cost in a single account.

Federal child labor regulation would presumably be more effective than State regulation. This is all that can be said for it, or against it, so far as liberty and the home are concerned. If the child labor amendment fails, the employment of children in factories, workshops, mines and quarries, oyster beds and beet fields will be more general and persist longer than it would if the amendment is adopted. This, we think, will generally be admitted on both sides.

Thus the matter simmers down to simple issues of fact.

Does early employment in factories, mines, and workshops actually make for the full development, physical, mental, and moral, essential to a condition of real liberty?

When wages are adjusted to the fact of child labor, is the parent "free" to put his children into a factory or keep them out, as he chooses?

Is the "home" from which children are hurried every morning to the factory and to which they return at night broken with weariness the "sacred institution" fat business men and windy professors are prating about?

We think that everyone who knows anything about actual industry will agree that it is child labor, not any law restricting it, that is destructive of liberty: destructive of the liberty of the child, and of that of the child's parents, who are thrust into a position where they have to choose between starvation and the enslavement of their children. Ultimately, it is destructive of the liberty of the community that tolerates it. We think it will also be generally agreed that wherever child labor is common the home tends to disintegrate.

On the one side are real issues. If the child labor amendment is adopted, the Federal Government will be in a position to cope with the actual evils of child labor. It will have the power to eliminate conditions destructive of the home and liberty, and it is likely to use that power. On the other side are imaginary issues. The Federal government will have the power to liberate the boy from chores and the girl from tending the baby. It would certainly never use any such power.

Why, then, is not the amendment restricted to the field in which the Government would naturally use the powers granted? Why is it not restricted to industry, mining, and commerce? Because there are equally serious abuses in agriculture and gardening conducted under the padrone system. Why is it not restricted to child labor for wages? Because such a restriction would open the door wide to all sorts of subterfuges. Why is not an exception made of child labor directly under a parent's supervision? Because of the border lines cases sure to emerge.

The child labor amendment is what every properly drawn constitutional amendment ought to be—a grant of powers that the legislature may exercise at its discretion. If it had been, like the prohibition amendment, direct legislation incorporated in the Constitution, it would have been reasonable to cavil at any apparent excess of scope. An amendment prohibiting all child labor under 18, or 16, or even 10 or 8, might decently be opposed as impairing the liberty of parents and undermining the home. But the charge that the child labor amendment as it actually stands attacks liberty and the home is absurd. And where it is used by interested parties to preserve their privilege of exploiting child labor, it approaches the utmost limit of propagandist effrontery.

MISINFORMED MASSACHUSETTS

By Wiley H. Swift

From *The Survey*, November 15, 1924.

By a vote of approximately 3 to 1, the voters of Massachusetts instructed their representatives on election day against ratification of the children's amendment. This decisive vote is to be charged up in part at least to two causes.

First, the friends of the amendment blundered in presuming that because President Coolidge, Speaker Gillette, Senators Lodge and Walsh, and all but three of the members of the last House of Representatives from Massachusetts supported the amendment the people would support it. This presumption lulled them to sleep, or at least into state of semi-slumber.

Second, the campaign for the ratification of the amendment started weeks too late and never at any time had one-fifth as many workers as it needed.

I was with an automobile caravan in the campaign for the amendment for ten days in Massachusetts. The misunderstanding and misconceptions about the scope and purpose of the amendment were absolutely astounding. We met scores of voters who actually believed it was drafted for the purpose of stopping all work by all persons under 18 years of age. Of course, this is preposterous, but the voter believed it to be true. He had been told that it was true. Naturally, he was against the amendment.

When one got an opportunity to lay the matter clearly before the voter, it was no difficult matter to get him to understand the truth. This was especially true of workers in mills and factories. We went to many mill gates. We were heard gladly, and our literature was actually seized upon. The trouble was that our arms were too short. We could not reach enough of the voters in the short time.

In all our travels with the caravan none of us, so far as I know, found a single person unwilling to consider the matter. I was particularly impressed with the very close attention given to our workers, whether they were speaking to a crowd or simply talking to one or two. The people wanted the truth. They did not have it, and the majority of them, I am sure, simply voted honestly according to the best light they had.

There were those who spoke and taught selfishly rather than frankly. Down in North Carolina, cotton manufacturers used to charge that I was being paid by cotton mill men of New England to fight the South for the benefit of New England manufacturers. Now the people know the truth.

The cotton manufacturers of the South have joined with the National Manufacturers' Association to defeat the amendment, and so they are succeeding. There is money behind this group—millions of it. We could feel its weight in every community.

The pamphlet of James A. Emery, general counsel of the National Association of Manufacturers, seems to be the textbook of the opposition. From it the voters gathered that the amendment was conceived in Russia. President Coolidge's support of the amendment should have been answer to that, but it was not.

From it they gathered that the education of the child was to be regulated under the amendment. Any lawyer who takes care to investigate knows better than that, but the people are not lawyers, and, wonderful to say, there were lawyers who were teaching just that.

From Mr. Emery the people gathered that in such a simple, humane matter as giving protection to children, the Congress of the United States is not to be trusted—and they believed it. Believing it, they voted **"no."**

Taking the case by and large, the showing for the amendment in Massachusetts is not bad. Massachusetts has more states righters than any Southern State. A very substantial part of its voters are still upset over the eighteenth amendment. A smaller number are trying to get revenge for the ratification of the nineteenth. The National Manufacturers' Assocaition understood, better than the friends of the amendment, that Massachusetts was the first battlefield. They threw all their resources into it, and, as was to be expected, they won.

It is just as well that they did, in this first struggle. This has put the churches, the women's organizations, organized labor and all the other organizations supporting the amendment on notice. This is the first coming to grips between all these organizations interested in social development and the National Manufacturers' Association and its camp followers. It is not bad to get the lines chalked off.

Then, too, this vote in Massachusetts is going to lead to a careful scrutiny of the amendment by the people of other states. That within itself will be most valuable. The Constitution ought not to be amended except after very careful consideration. Before this campaign is over, the people are going to understand that the matter of ratifying the amendment is nothing more than an inquiry addressed by Congress to the people as to whether or not they wish Congress to have the power to protect boys and girls from harmful employment if it is ever necessary. Just the mere facing and answering of that inquiry will lead us a long way in first thought and ultimately in sound legal principles.

Speaking for myself only and in the knowledge of all that I know

about the situation in Massachusetts, I feel that we have no reason for being downcast. It is yet early in the day.

AMERICAN PATCHWORK

Extracts taken from a bulletin issued by the National Child Labor Committee, New York City, 1923.

We do not believe in child labor in the United States. Or so we would probably claim if a foreign visitor were to ask us. Yet if that foreign visitor were inqisitive enough to study our Federal census or the vagaries of our State child labor laws, the situation might be embarrassing.

We do not believe in child labor—but 1,060,858 children between 10 and 15 are at work in the United States, according to the census of 1920.

We do not believe in child labor—but 378,063 of these working children are between 10 and 13 years of age.

We do not believe in child labor—but the census enumerates children at work in every State in the Union.

It is easy to play the pot-and-kettle game in this matter. The southerner points with horror to child labor in New York tenements. In New York they mention Southern cotton mills or Michigan beet fields. In Michigan they speak of Mississippi canneries or Texas cotton fields. And in Texas they say that some of the highest percentages of child employment are in eastern textile cities.

The truth is, we are all culpable. The percentage of children from 10 to 15 employed ranges from 3 per cent on the Pacific Coast to 17.5 per cent in the East South Central States; (25.5 per cent in Mississippi is the highest rate in the country).

The census shows that child labor is national; it exists in some degree in every State, within or without the law.

And there are two things which the census does not show:

1. That under their State laws thousands of these enumerated children work long hours, even at night; and,

2. That, as competent national and local investigation is always telling us, there are plenty of children under 10 at work, though the census does not list them.

We do not believe in child labor in the United States—but child labor still exists. It exists because although we have a national sentiment against it, we have no national expression of it—that is, no national standard, and no uniform standard in our State laws.

The feeling that child labor is inhuman, uneconomic and not to be tolerated in America has grown and spread since the first child labor law was passed in Massachusetts in 1837. At that time textile mills were the chief concern, but gradually, as our industrial life became

more complex, we discovered that other forms of employment were equally bad. Coal mines, canneries, tenement homework, glass factories, street trades, industrialized agriculture, have each in turn been found to be exploiters of children. The growth of child labor laws has been largely the story of prohibiting one or two forms of employment and little by little adding others, reducing hours of labor, and so on.

Slowly our whole conception of what a child should do in childhood has changed, and the emphasis in our laws has shifted. A good child labor law as we now see it would not only prevent overwork, but would also open to each child opportunities for health, schooling, play, freedom—all the child-necessities of which labor would deprive him, and without which he cannot become the kind of citizen we want. We believe that a child labor law is constructive, the groundwork of child-development.

And this view has further complicated the problem. A kind of work may not be especially harmful in itself, yet if it deprives the child of schooling, it is harmful. There has been much room for argument and difference here. Some states have moved in one direction and some in another. Some have moved steadily though slowly, and others only spasmodically or under stiff pressure. Some have codified all their child welfare laws to be sure they are properly related, and others have laws that bear but slight relation to each other. . . .

CHILD LABOR: PROBLEM IN AMERICAN GOVERNMENT

By Ramond G. Fuller

(Author of "Child Labor and the Constitution")

From *American Review of Reviews*, January, 1925.

The laws of only eighteen states measure up fully to the protective standards of the former Federal laws with respect to the employment of children in mills, factories, and canneries. Those standards (in addition to the 16-year age minimum for mines and quarries) were: a 14 year age minimum for mills, factories, and canneries, with an eight-hour day, a forty-eight-hour week and no night work for children under 16 in these mills, factories, and canneries. The deficiencies of State laws are of varying degrees of importance. All but two states nominally prohibit industrial labor under the age of 14, but many of the statutes are seriously weakened by exceptions and exemptions. Twelve states fall below the eight-hour standard. Four place no restriction on night work. In numerous respects the State laws fall short of meeting the obvious need of working children of different

ages in different occupations. One State has made no improvement in its child-labor law in the past ten years, and its statutory provisions are decidedly poor.

FEDERAL AMENDMENT BEFORE THE STATES

The properly so-called child labor amendment, product of the same public opinion which procured the Federal child labor acts of 1916 and 1919, is now before the states for ratification, having been formally proposed last spring by more than the necessary two-thirds vote in both houses of Congress.

The amendment, however, has become the subject of much misunderstanding. Arkansas has ratified, but Georgia and North Carolina have rejected. In the Louisiana legislature a resolution to ratify failed of passage. The people of Massachusetts, by a referendum vote of 696,000 to 247,000, advised negatively on ratification, and though their next legislature will doubtless act accordingly, it is likely to remember the fact that the popular campaign, from the standpoint of propagandist resources and activities, was rather one-sided—the side, as Napoleon would have said, of the heaviest battalions.

These beginnings, with initial defeats, are by no means fatal to the amendment cause, but while time is long, childhood is fleeting. Between thirty-five and forty states will have the amendment before them at legislative sessions in 1925.

It is important to view the amendment, in its historical setting, as an outgrowth of precedent events. First, the long history of State legislation, beginning with a Massachusetts act of 1836. Then, such gross inadequacy of legislation in some of the states as to lead, about twenty years ago, to a strong and widespread demand for Federal action. Then, successively, two Federal child labor acts, both of which were declared unconstitutional. And now the proposed amendment, due to the continued backwardness of not a few states in protecting (or not protecting) American children within their borders.

Opponents of the amendment, in their attempt to minimize the present amount of child labor in the backward states, quote the census figures of 1920, which were obtained when the Federal child labor tax law was still in operation, and at the beginning of a period of widespread industrial depression and unemployment. The total number of children from 10 to 15 years of age reported in gainful occupations was 1,060,858. Of these 413,449 were in non-agricultural pursuits; of these 185,337 were in manufacturing and mechanical industries; of these 54,649 were in textile industries; of these 21,875 were in cotton-mill work. Of the children from 10 to 13 years

of age, 49,105 were engaged in non-agricultural employments, and 9,473 in manufacturing and mechanical industries.

RESTORED FEDERAL STANDARDS WOULD REACH BACKWARD STATES

The Federal law, by its age, hour, and night-work provisions, affected the backward states, not the advanced states;and it is in the backward states that the increase in industrial child labor since 1920, particularly since 1922, has taken place, as shown by recent test studies. We do not know the present number of wage-workers under 14, or under 16, but we do know that there is no adequate or nation-wide protection against the exploitation of more when and where conditions favor. In any case, the thousands today mean more thousands next year, and in the course of a decade an appalling total; for child labor is a continuous process, a constant procession. It is worthy of special note that the restoration of the former Federal standards would include the eight-hour provision; and that in 1920, according to the census, there were 61,000 boys and girls under 16 employed in the mills and factories (not to mention other workplaces) of the states that still permit longer than an eight-hour workday—nine hours, ten hours, eleven hours, "sunrise to sunset."

WHAT POWER IS GRANTED TO CONGRESS?

The Federal acts were passed under express powers (the power to regulate interstate commerce and the power to levy taxes) in association with which an implied police power may be exercised, but both erred with respect to subject matter; the amendment is designed to remove this difficulty as to subject matter. It will enable Congress to deal with child labor as child labor, not as something incidental to taxes or interstate commerce. . . .

The power thus granted to Congress is neither new nor an extraordinary power, as will be shown. Its appearance of novelty is due to the fact that all Federal powers are delegated powers and to the consequence that any grant of power to the central authority has to be described and defined in words and those words put into the Constitution. The words of the proposed amendment were chosen with the aid, and meet the approval, of able constitutional lawyers like Dean Roscoe Pound of Harvard and Dean Lewis of the University of Pennsylvania. They were selected as free from ambiguity, and as expressing simply the intent of the amendment—to give Congress authority to pass another child labor law.

It is said the proposed amendment gives Congress power to establish higher standards than those of the former Federal acts. Very true. The people who criticize the proposed amendment on this ground would be better pleased if all sound principles of amending

the fundamental law had been violated. The amendment is properly couched in general terms and properly conveys a general power (most of the original Federal powers are general). By the use of more specific terms than those employed, or by restriction of the power granted to that sufficient merely for the passage of such a Federal law as may now be thought necessary or desirable, the amendment would have partaken too much of the nature of legislation. It is said, for example, why include agriculture. The answer is, why exclude it? Agriculture is not included specifically, but generally. Its exclusion would have been specific—and legislative. The matter of exclusion and inclusion, so far as particular occupations or groups of occupations are concerned, should be left to legislation. It has no place in a general grant of power by constitutional amendment.

The "under 18 years" limit is a constitutional maximum and not a legal minimum. It is there because a constitutional amendment is supposed to last a long time, and because it was thought unwise, on account of unforesen conditions or contingencies that might occur in the next hundred years, or the next five hundred, to circumscribe unduly the general grant of power given to Congress with reference to the labor of young persons. It is there, also, to permit, if and when considered advisable, such special provisions relating to dangerous occupations, hours of labor and night work as are found in all good State laws. This explains why the amendment contains, besides the word "prohibit," the words "limit" and "regulate." No reasonable person wishes or expects Congress to prohibit the labor of all persons under 18 years of age in all occupations, not even "gainful employment" in the census meaning of that term.

SAFEGUARDS AGAINST ABUSE OF POWER

The proposed child labor amendment is not a proposed law, and sets up no standards of legislation to which Congress must conform. Congressional action under the power granted by the amendment is left entirely—and rightly—to public opinion and representative government. To withhold legislative power for fear it might be abused would be to stop legislation altogether. A certain amount of discretion on the part of a representative legislative body must be assumed by the citizens by whom its members are elected and to whom they are responsible, else representative government is a failure and some substitute for it must be found. Attempts to defeat the amendment by disparaging Congress are ill-advised. From the things that are now being said about that constitutional agency by opponents of the child labor amendment, one might suppose that these people want to abolish Congress. True it is that if Congress cannot be trusted with the power to legislate on child labor (as it has twice

done before), it cannot be trusted with any other power. There may be defects in our system of representative government, nationally, but they are not to be corrected by implying, more than implying, that Congress is a bad institution, composed mostly of fools and knaves.

The power "to limit, regulate, and prohibit the labor of persons under 18 years of age" is no more dangerous than powers already possessed by Congress in other fields, or than the power possessed by the states in the same field; and there is the same safeguard against its abuse that exists with regard to any and every other governmental power—the safeguard of common sense and public opinion acting through representative government. There is also the safeguard of the Bill of Rights, particularly the fifth and ninth amendments.

THE QUESTION OF STATE RIGHTS

Washington said that the basis of our system of government is the right of the people to alter their Constitution. But altering their Constitution is not the same thing as changing their governmental system. The framers of the Constitution delegated to the Federal government those powers which they thought in 1787 were essentially national in character or could best be exercised by the central authority; other powers they reserved to the state. They left to the sovereign people the right, the responsibility and the method of redistributing the delegated Federal powers and reserved State powers as longer experience and new developments might require.

State rights are purely constitutional rights, and, like all other constitutional rights, derive their sanction from the Constitution itself and ultimately from the sovereign people of the preamble. It has long been established that the states are not sovereign in the sense of "a political community without a political superior," to use Lincoln's words in 1861. The states, however, are obligated by Article V, which provides that three-fourths of their number may effect an amendment of the Constitution. It is part of the contract into which they entered. The dissenting states by that contract are required to abide by the decision of the three-fourths or more. I submit that if three-fourths of the states desire to give the Federal government a share of responsibility in the control of child labor, now a national problem, there is no departure from our dual system of government, but only a dual use of that system to meet a modern social need.

As to the nature and scope of the power granted to Congress by the proposed amendment, it is the same in kind but less in extent than that possessed by the state. Congress cannot legislate regarding the labor of persons 18 years old, while all the states can and many do legislate in what is commonly called the child-labor field up to

the age of 21. The majority of states have provisions reaching up to at least the age of 18. In order to have given Congress power equal to that already possessed by the State, it would have been necessary to set the age limit in the amendment at 21—which is doubless the age limit which the Supreme Court would be obliged to assume if none were specified.

The Federal government has no powers except those expressly given and those impliedly necessary to the exercise of such express powers. In the child labor cases, the Supreme Court denied that regulation of child labor was impliedly necessary to the exercise of either the interstate commerce power or the taxing power. The power conveyed by the amendment is limited strictly to labor, and Congress could not constitutionally deal even indirectly with education, religion, or home life. But the "due process" clause of the fifth amendment (which the proposed twentieth amendment does not repeal and which, therefore, stands), and by the "rule of reason," Congress can legislate on child labor only to the extent regarded by the Supreme Court as reasonably necessary to protect child health and the general welfare.

The only kind of Federal law wanted, needed or possible to obtain is, therefore, a law embodying standards above the lowest standards of State legislation and below the highest State standards. The proposed amendment and the anticipated legislation under it are not intended to relieve the states of responsibility or opportunity for State action in accordance with varying local conditions. Section II safeguards the right of every State to protect its own children to the fullness of their need. . . .

CHILD LABOR FACTS

Extracts from bulletin, "Child Labor Facts," published by the National Child Labor Committee, January, 1922.

IS CHILD LABOR OVER?

One child out of every eight from the age of 10 to 15 is gainfully employed outside the protection of Federal or State laws. This statement is to be understood in connection with the limited scope of the Federal child labor law and with the variation of the State laws in regard to occupations and ages covered.

Each year 1,000,000 boys and girls of these ages leave school to go to work, perpetually swelling the ranks of the great army of men and women handicapped in respect of health, education, vocational fitness. The greatest vocation of all is life and the ultimate employer is society.

This yearly influx of children into child labor is just as serious a

matter as the number of child laborers at any given time. Continued over, say, **a ten-year period, it means** 10,000,000 children prematurely leaving school and going to work.

So when we secure legislation stopping any part of this exodus from the schools into child labor we really protect in the course of ten years ten times as many children as were originally affected. . . .

Very young children—even children too young to go to school—are found in child labor. The task of abolishing this nation-wide evil is not yet finished.

TENEMENT HOMEWORK

In homes where work is sent in from the factories, child labor is common. Children become helpers at such work almost from their babyhood, working often under the most unsanitary conditions, in poor light, and for long hours.

A recent study by the United States Women's Bureau in Connecticut showed that among 268 children in homes where such work was done, at least 110 worked regularly. One woman said: "Homework isn't worth while if the children don't help." One 9-year-old girl worked a footpress during her noon hour at home from school, while a younger brother and little cousin helped. When asked, "When do you have time to play?" she answered, "Sometimes on Sunday."

The following story is told in the latest report of the New York State Industrial Commission: "I might cite the case of a child of 9 years who was crying when I made my entrance. I asked her what was wrong, and her mother said, 'Aw! she wants to go on the street and play.' I asked her what she wanted to do—finish the beads she had just come away from? She answered, 'Sure; why not?' "

STREET TRADES

Although twenty-one states make some regulation of street trading by children, the age limit fixed is often so low that 10-year-old boys may engage in this business. Where the law is not well enforced or no regulation exists, even younger children sell papers or peddle articles on the streets.

In large cities children as young as 6 are regularly engaged in selling newspapers, working at unseasonable hours, and learning the tricks of the trade and the unhealthy wisdom of the streets and public resorts.

We are apt to look at the little newsie or bootblack and murmur, "Isn't he cunning!" without stopping to inquire why he is there, what he is learning, or what he is growing into. *The streets of our cities are no fit school for little children.*

AGRICULTURE

In the Imperial Valley, California, an agent of the National Child Labor Committee found children of 4, 5, 6, and up picking cotton regularly while the schools were in session.

In Oklahoma children as young as 5 were found picking cotton regularly, while the average daily attendance in the schools was only 57.2 per cent of the enrollment. One 5-year-old was said to be too young for school, but "he kin pick his twenty pounds a day, mostly ten or fifteen pounds." A 12-year-old girl picked 200 pounds a day.

In the beet fields of Michigan a family of 6 was found living in a one-room shack with no windows. Little Charles, 8 years of age, was left at home to take care of Dan, Annie, and Pete, whose ages were 5 years, 4 years, and 3 months, respectively. In addition he cooked the noonday meal and brought it to his parents in the field. The filth and choking odors of the shack made it almost unbearable, yet the baby was sleeping on a heap of rags piled up in a corner. . . .

FARMWORK AND SCHOOL ATTENDANCE

The most widespread effect of farmwork on children, the National Child Labor Committee finds after extensive investigation, is interference with schooling either as a cause or as an excuse for irregular attendance.

Undoubtedly the most serious problem of child labor today is that of agricultural work. The evil of the situation is not only positive, but negative—not only he conditions it creates but the conditions it denies. "Rural child labor in vast areas of the United States today carries with it a virtual denial of education," says Miss Helen V. Bary, of the Federal Children's Bureau, in the *North American Review*.

A study of 174 schools in Oklahoma, involving 6,389 pupils, shows that the total number of days absent during the year was more than one-third of the total number of days present. The number of days missed by both girls and boys on account of farmwork was 73,121; on account of illness, 44,148; on account of indifference, 26,382; on account of housework, 17,862; on account of bad weather and distance from school, 16,997; on account of all other known causes, 2,791. It will be seen that the absences from farmwork and housework together almost equal the sum of all the other absences put together.

In North Dakota only 30 per cent finish the eighth grade and 4 per cent the twelfth grade. At least 20,000 farm children stay out of school each year for a period of sixty days to help in raising wheat and other small grain products.

In Colorado the local school authorities of counties in the sugar beet growing section estimated that 4,841 children between the ages of 6 and 15 miss from 2 to 22 weeks of school, with an average of nine and one-half weeks, because of work in the fields.

In the Colorado study by the Children's Bureau the educational handicap of the beet-working children was shown by the fact that over 40 per cent of those between the ages of 9 and 16 included in the study were from one to seven years behind in their grades. School records indicated that the progress of these children was inferior by 25 to 35 per cent to that of the unemployed children attending the same schools. The children of the transient laborers were particularly unfortunate educationally, many being taken from school in March not to return until November. . . .

CHILD LABOR: WHY THEY INVOKE STATES RIGHTS

From *The New Republic*, December 24, 1924.

Little by little the attack upon the child labor amendment is shifting its base from the untenable position that empowering the Federal Government to regulate child labor is an attack upon the integrity of the home, an invasion of the right of the parent to dispose of the time and labor of his children to suit his fancy. The parent has no such right under any civilized government. Everywhere the State asserts the right to regulate or prohibit child labor. With us, the governmental body which at present exercises this power is the State instead of the nation. The child labor amendment proposes to give the nation a share in this power. The issue, therefore, is not the family or the individual versus government, but State versus nation. This the more intelligent advocates and opponents of the amendment recognize clearly.

The seriousness of the issue does not lie in the terms and objects of the amendment itself. It is silly to talk of an army of Federal bureaucrats roaming over the land devouring the taxpayers' substance and setting his children against his authority. The Children's Bureau, or whatever other organ of enforcement may be created, will have a perennial fight on its hands to secure appropriations sufficient for the enforcement of such laws as Congress may enact. The appropriations committee is not going to find funds for inspectors enough to look into every kitchen, every field, and garden. Under the two child labor laws enacted by Congress and later declared unconstitutional there was close co-operation between the Federal and State authorities. This would be true under the amendment. The State, retaining exclusive control of the field of education, is too strongly entrenched to be thrust aside in the common enterprise of establishing the conditions under which children live. Where the

State law is adequate Washington will be chary in supplying enforcement agents. Where the State law is defective a corps of Federal inspectors will be required. No State that resented their presence would be forced to put up with them. It could bring its laws up to the minimum standard.

Even if the result of the amendment were to transfer the interest in child labor legislation to the National Government instead of that of the State, it would not be true, as it is frequently asserted, that the states would be shorn of a legislative field in which they are actively working. Since 1912, as the New York World points out in one of its weightiest leaders, there has been great activity in child labor legislation. The World does not point out that the activity was greatest while the abortive Federal child labor laws were in force, and has nearly disappeared since the second one was declared unconstitutional. This may be explained in part by the greater difficulty of persuading legislatures to act, now that a State with high standards is again exposed to the competition of states with low standards. But the chief part of the explanation must lie in the decline of democratic idealism that has marked the last years. With due allowance for the probability of a recovery of the democratic spirit, we may still assert that the child labor issue itself does not stand as a major one, either in legislation or administration. It is attacked as a symbol of something bigger and more fundamental in our national life.

The real issue is the old one of states rights, the most momentous domestic issue in our history. It has figured in innumerable political campaigns; it cost us a civil war. It is no wonder that to many Americans this issue should take on almost a religious character. When so much emotion has been compacted into a single formula men cannot be expected to exhibit calm reason. They cannot be expected to distinguish between what is fundamental to the American system of government, the restriction of the Federal Government to the field expressly assigned to it by the Constitution and the reservation to the states of all residual powers not expressly denied to them, and what is unessential and requiring adaptation to the times, the definition of the field in which the Federal Government may work. States rights are invaded when the Federal Government oversteps the limits set by the Constitution. If such practices were permitted the states would be in great danger of being reduced to the position of mere administrative areas, like the French departments. When the people of the United States, by due constitutional process, confer upon the Federal Government powers it has not hithtreto possessed, there is no invasion of states rights, even though the states may incidentally be shorn of some of their powers. Under our system there are neither State nor national rights superior to the will of the sovereign people.

The founders of the Constitution conferred upon the Federal Government such powers as at the time were ample to protect the common interests of the people. Control of foreign relations, of foreign and interstate commerce, of the coinage, the power to make war or peace, and apparently adequate power of taxation—were these not sufficient for the management of the common affairs of thirteen sparsely settled states strung along the Atlantic seaboard, with each community leading almost a self-sufficing existence? The founders of the Constitution were practical men and would no doubt have conferred broader powers on the Federal economy if the conditions of the National Government had required it. They did not imagine that they were fixing for all time the spheres of the Federal and State governments. Indeed, Washington, seeking in his Farewell Address to define the essence of American institutions, does not bring forward the Constitution itself, but the power of the people to change it.

An immense revolution in economic life has taken place since the adoption of the Constitution. An unforseeable mobility of population, commerce and industry has characterized the century since the industrial revolution got well under way. Organized capital has risen to the rank of an economic political power of the first magnitude; organized labor has gained a status that to the founders of the Constitution would no doubt have seemed most dangerous. A few optimists may hold that these new forces need no regulation; that whatever emerges from the womb of time is necessarily well born, destined to enrich the life of mankind. History and common sense preach no such dogma. The State cannot be indifferent to the forces working within it. A government which acts as a trustee for the common interest must hold itself in readiness to control and check, if necessary, forces that may operate subversively to the good of the people. And in a country of divided sovereignty, like the United States, common sense would seem to ordain that power to cope with new forces should be conferred upon State or nation primarily with a view to efficiency.

Twenty years ago this appeared to be recognized by intelligent men of all parties. Only the Bourbon rejected violently the program of extending the powers of the Federal Government to cover the fields in which State action was ineffective, and the establishment of the principle of harmonious State and Federal coöperation. But in these two decades a change appears to have come over the public mind. The Bourbons have come out into the open with the anti-constitutional doctrine that the Constitution must be left intact as it stands.

One reason for this change in public sentiment lies on the surface. We have a Federal prohibition law, and its administration is a scandal

and a disgrace. We had State prohibition laws before. What of their enforcement? It was everywhere a scandal and a disgrace. Both State and nation have tried their hands at enforcing unenforceable laws. They have failed ignominiously. But the State failure has been swallowed up in the more recent Federal failure. Just now the burden of disrespect has been shifted from the states to the Federal Government. This has no bearing, to be sure, on the question of the distribution of power between State and Federal governments. It bears on limitations of government in general, not of any particular branch. But the discrimination is too nice for popular currency.

Another reason, and a far more significant one, is the immense progress in self-consciousness that has been made by the leaders of big business. With the consolidation of their economic position they grow more and more concerned over the weakness of their political position. They are afraid of the American people and of the governments which may at any time fall subject to the control of the American people. The chief virtue of our constitutional system, as they see it, is its inefficiency. The Federal Government, which alone holds jurisdiction co-terminous with the American business field, is without adequate powers of regulation. The states have sufficient regulatory powers, but because they are arbitrary fragments of the national economic unit they are unable to use it effectively. In the no man's land between State ineffectiveness and Federal incompetence, business may build up an economic state of its own, unhampered by regulation, insured against attack by the constitutional safeguards of property.

Big business has no considerable stake in child labor as a productive force. The 200,000 children under 16 employed in industry can produce no tremendous sum of profits. What leads big business to oppose the amendment is the principle involved, namely, the principle that when the American people desire to regulate industry they shall have the constitutional power to do so.

We think big business is mistaken in its tactics. Suppose it forces a crystallization of our constitutional development, what then? Is it to be supposed that the American people, this huge and unruly colossus, will lie on its back forever, held motionless by Lilliputian legalistic strings? In the long run, there is no safety for any interest in America except by the favoring will of the people, won by adequate show of merit.

NEGATIVE ARGUMENTS

THE PROPOSED TWENTIETH AMENDMENT

By Thomas F. Cadwalader
Of the Bar of Maryland

From *The Constitutional Review* for October, 1924.

The proposed twentieth amendment, called the "child labor" amendment, is by far the most radical and far-reaching change in our form and conception of government that Congress has ever purposed. The eighteenth amendment is the first that invaded the field of the reserved power of the states so as to authorize affirmative legislation by Congress upon a matter of local concern. But the matter comprehended within its scope is specific and sharply defined. It cannot be extended by construction beyond the making of or dealing with intoxicants. While it is charged that the Volstead Act extends to non-intoxicants, yet it must be admitted that it does not travel far afield or beyond what many reasonable men believe, whether rightly or wrongly, to be the necessary limits of any effective prohibitory law. The subject of prohibition is an exasperating one to almost everybody, for its merits are not susceptible of proof or of disproof. But the social, economic, and political effects of the prohibition of liquor are not so manifestly serious as would be the prohibition of labor or its regulation by law on any considerable scale beyond the recognized limits of the existing police power of the states.

It would be a sufficiently serious innovation in our Federal system if Congress were merely authorized by this amendment to supplement the police regulations of the several states respecting the employment of minors in industry for pay. It would result in a great increase in the number of Federal officeholders, and would still further congest the Federal courts, adready nearly suffocated by liquor cases. It would further diminish the sense of responsibility of State legislatures and local officials in regard to an important field of local social legislation. It would commit to a Federal bureau and its agents very broad inquisitorial powers that ought never to be exercised unless in cases of the plainest necessity otherwise than under the sanction of laws enacted with the approval of local sentiment and by officials of a local government. There can be no real liberty where important personal rights, such as the right of parents to put their children to work, are governed by laws enacted without regard to local conditions by a legislative body that is not amenable to local

publlc opinion, and enforced by the agents of a bureaucracy responsible to no one at all except their chief; and, under the civil service laws, not fully responsible even to him.

GRANTS NEW AUTHORITY

But these objections, inherent in all attempts at centralized municipal legislation, are not the most serious ones to the pending amendment. This measure travels far beyond the limits of the police power. It does not purport to vest in the Congress only those powers that now may be, and are, exercised by the states, but it confers an entirely new grant of authority hitherto unknown under our system, and, indeed, unknown except in the continental nations of Europe and sparingly exercised even there. We must cast our eyes on Russia for an illustration of the full extent of this authority.

The power which Congress proposes should be conferred upon it is the power "to limit, regulate, or prohibit the labor of persons under 18 years of age." If confirmed by this constitutional amendment, it will, of course, not be subject to the earlier restriction upon Congress contained in the fifth amendment, that forbids depriving any person of life, liberty, or property without due process of law. One effect of the fifth amendment is to render unconstitutional any act of Congress, even within the sphere of its admitted powers, which would arbitrarily limit the right of the individual to seek and obtain any legitimate employment upon any terms satisfactory to himself. Notwithstanding the dissent of the Chief Justice and Justices Sanford and Holmes in the minimum wage law cases (Adkins vs. Children's Hospital, 261 U. S., 525), this is accepted doctrine. The dissent of those judges was placed on the ground that the legislation did, in fact, bear a real relation to the public health and morals which it is competent for the law-making body to protect even at the cost of private rights. But the legislation of Congress under the proposed amendment, so long as it relates to the labor of persons under 18, need have no regard whatever for their health, morals, or safety. It may be based on purely economic or even on purely political grounds. It may partake of racial or sectional discrimination. It may purport to equalize the costs of production in different regions or even to render them unequal. In short, the power is granted without any limitation whatsoever except as to the age of the persons that may be directly affected. This is placed so high as effectively to negative even the implication that it is a part of the existing police power. What State could lawfully forbid a young man of 17 accepting employment as a clerk or on a farm? What State could compel a young women about to attain her majority to continue at school instead of helping to eke out the meager budget of her struggling parents?

Not only is the recognized limit of all statutes regulating labor entirely ignored in the proposed amendment, but the power is so broad that it draws to itself, as if by gravitation, a field of legislation so vast that Congress and its most ardent advocates would pause could they realize it. The labor of a person is his occupation in life. If he is not laboring, he is at leisure. The word "school" means "leisure." If a person's occupation may be limited or prohibited then in order to enforce the prohibition effectively, it is manifest that his leisure may be regulated. Obviously, Congress could impose educational requirements and conditions for permitting the labor of any person under this amendment. That means that it could inquire into and virtually regulate all schools, under penalty of excluding their pupils or graduates from all occupations whatsover until they pass the age of 18.

INQUISITORIAL POWERS

The parents and guardians of minors must come under like inquisitorial powers, or the effective exercise of the power over labor would be curtailed. The Constitution itself grants to Congress all powers necessary or proper to the carrying out of those powers actually enumerated. This amendment adds to the enumeration and consequently to the collateral powers. In order to make effective the terms of any statute enacted under it, Federal agents may be authorized to inspect the homes and question the parents of all minors under 18. Congress may require or authorize its agents to require certain standards of home living as a condition for permitting the youths and maidens of the land to earn their livings or even help their parents. It might, and would have to, supersede parental authority and discretion. It might provide new guardian of its own selection for both the persons and the property of minors in order effectively to regulate their labor, including whatever they might do, outside of their recreation or perhaps their studies. Indeed, it could and would regulate their recreation, too, as necessarily or properly related to the regulation of their work.

Beyond all doubt the amendment would confer express power to fix the wages of any or all persons under eighteen in any or all industries. Whether this can be done without affecting the wages of adults remains to be seen, but if not, then, under the doctrine of necessary and proper powers, the wages of adults would also become subject to legal regulation. The right of persons under 18 to strike might unquestionably be prohibited or restrained. This does not necessarily mean that young persons might be forced to work at any specified occupation, for it is not to be supposed that the twentieth amendment would operate to repeal the thirteenth, abolishing slavery

and involuntary servitude, but it does mean that the forces of government could be employed directly in settling all disputes between employers and such of their employees as are under this age, and both might be forced to accept the decision of a Government bureau regarding the wages, hours, and conditions of their employment. Such a controversy and settlement must also involve adult employees, and seriously affect their rights. That it should do so, even injuriously, would not be a valid reason for denying the existence of the governmental power invoked.

If a parent's control over his child, and the exercise of his best judgment for his child's welfare, is taken from him and vested in a Federal bureau, it is difficult to place any real meaning on the word "liberty" as used in the Constitution. Of course, the executive alone could not deprive a person, even a child, of his liberty, but the restrictions of the fifth and fourteenth amendments are aimed not so much at executive as at legislative power. The Constitution says in so many words that a law depriving a person of liberty, without due process of law, is no law at all. The twentieth amendment, on the contrary, confers the extraordinary power to prohibit or regulate the labor of certain persons. If this can be done, those persons have no liberty that is immune from interference by Congress, unless it be the liberty of conscience. Surely the liberty of a parent is of little value if he cannot use it in regard to his own offspring. The word means something or nothing. If it means something, it means that any person, above or below 18, has individual rights that the legislative as well as the executive powers of government are bound to respect, and that the courts of jusice are bound to protect.

If this amendment be ratified, what right can any person under 18 have, in regard to occupying himself or herself, that the legislative power may not take away at will? What right would remain to any adult citizen worth more than the care and control of those for whose existence he is responsible? If these most intimate and sacred of human rights are placed beyond the sanction of the courts, how can their function of determining the constitutional limits of legislation be exercised? Surely, the rights of property alone cannot in reason remain immune to legislative interference. Congress will be all-powerful in fact if not in name, and the great body of constitutional law on which our institutions rest, the doctrine of limited powers, will degenerate into a list of technical and meaningless quibbles until it breathes its last. With the adoption of such an amendment, it would not be difficult to foretell the demise of the greatest political creation of the modern world, the Constitution of the American commonwealth.—(Extracts).

WHY THE AMENDMENT IS DANGEROUS

By Mrs. William Lowell Putnam

From *The Woman Citizen* for December 27, 1924.

Whence did the twentieth amendment receive its heart-compelling title of "The Child Labor Amendment," a name calculated to lull the mind to sleep in the arms of the heart? If we can keep our minds awake, however, and study it from the standpoint which knowledge of life in general and of our country in particular teaches us to be true, we cannot but see that the name is entirely misleading, for on its face it appears to be a bill for the protection of childhood, whereas in reality it is a measure which will go further to injure children than anything which has ever been devised for that purpose. In its inception and in its effect it is wholly contrary to the habits, to the beliefs and to the ideals of this country.

It is utterly un-American. Is it conceivable that Lincoln's character could ever have been developed under a system that forced him to do nothing more of drudgery than is necessitated by playing on a ball team after school hours? Would President Coolidge be the man he is today had he not had his homely chores to do to help his parents? America's strength has always lain in her men and women who grew up in simple surroundings, helping in the family life and learning at home the duty of doing one's share in bearing the family burdens—the happiness of helping. A wholesome regard for duty is a help to everyone, and no sane person can imagine it to be a hindrance. More children have had their lives made very difficult for them through overcoddling than through oberwork.

CONGRESS ALWAYS USES ITS FULL POWERS

There are those who state with a semblance of knowledge (fanciful, of course) that the Congress, if given the power, would never pass legislation to endanger the authority of parents or the character of children. What has the Congress done or left undone to justify such a statement? The fair assumption is quite contrary to this—it is that the Congress will legislate to the full extent of the power conferred upon it, because it always has done so, and in this case it is particularly probable because of its refusal to confine its power in this amendment within reasonable limits, such as excluding from its jurisdiction young people working for their parents without pay and under perfectly healthy conditions in the household or on the farm. The fact that so much effort is expended by proponents of this measure in stating that Congress will not use the full power granted it by this amendment makes it obvious that these pleaders

are aware that if the citizens of the United States thought Congress would use to the full such great power over the lives, liberty and the right to acquire property of the young people of the country they would naturally be unwilling to grant it such power.

In the attempt to prove their point they often refer to the fact that the Supreme Court safeguards the rights of the people against the encroachments of the Congress, but it seems to be forgotten, when this protection is cited as a safeguard in the present instance, that the duty of the Supreme Court is to see that the Congress passes only legislation which is constitutional and that the object of this amendment is to alter the Constitution so that the most radical legislation in all matters covered by this bill will henceforth be constitutional and consequently removed from the jurisdiction of the Supreme Court.

The paramount issue before the people today is, Shall we tolerate a revolution in our form of government because the bullets used against the Constitution are sugar-coated? The sugar interferes not at all with their efficacy as bullets, but—to those who see only such part of the ammunition as they are intended to see—the deadliness of the missles is concealed. One of our papers recently made this sapient observation: "About the only way to mislead an American is to appeal to his humanitarianism. It is the surest way to mislead the American woman."

The Constitution, as is well said by one of our ablest constitutional lawyers, is "the living gospel of the liberties of the people; not of the restrictions and restraints upon them, as some would have you believe, but the palladium of those essential rights, liberties—aye! and duties—without which no man's home or living, peace or fireside, right to earn his living or pursue the happiness of his and his'n, is safe from an ambitious ruler, an envious neighbor, or a grasping State." It was framed to preserve our liberties from the encroachments of Government. The first, the fourth, the fifth, the ninth, and the tenth amendments are all threatened by the proposed twentieth amendment—one-half of the first ten amendments without which the Constitution would never have been ratified by the original states. What ground is there for abrogating them?

Perhaps the best proof that there is no valid ground is the fact that the advocates of the bill in their propaganda constantly cite, as still existing, conditions surrounding child labor which every one deplores but which have almost entirely ceased to exist. The states have been taking action to stop the abuse of children with wonderful success during the last few years, and, as stated in the publications of the Children's Bureau—which is unlikely to have overstated the side of the opponents of the amendment—the states have already remedied most of the objectionable conditions which once existed.

MISSTATEMENT OF PROPONENTS

The statements generally made about these conditions by the advocates of the amendment often bear little relation to the present facts. We are told pitiful tales of small children working in oyster and shrimp canneries, yet investigation indicated this to have been entirely stopped several years ago. Even the Secretary of Labor makes the mistake of speaking of the employment of 500 boys under 14 in coal industries, whereas the National Child Labor Committee, one of the most ardent advocates of the amendment, states, in the issue of its organ for April, 1924, that only five boys under 16 could be found in 100 collieries of the anthracite region of Pennsylvania. It will surprise most people to learn that, according to the census of 1920, only 404 children under 14 were employed in all the cotton mills of the South,and but 218 in those of the rest of the country—numbers which hardly seem to make necessary so dangerously injurious a measure to the rest of the youth of the country as this amendment—even if they had not already been very considerably reduced since 1920. Of course, the secretary is far too busy a man to look up everything for himself—he must, therefore, have been furnished his facts (?) by the proponents of the measure. Is it not reasonable to suppose that had they had better reasons they would have stated them?—had they known of a "better 'ole" would they not have gone to it? The truth is that there is none.

"No person shall be deprived of life, liberty or property without due process of law," says the fifth amendment to the Constitution, yet the first section of the proposed twenteith amendment states unequivocally, "The Congress shall have power to limit, regulate, and prohibit the labor of persons under 18 years of age." "Choose ye this day which ye will serve." If this amendment passes no one under 18 will hereafter have a right either to liberty, the acquisition of property, or the pursuit of happiness—if his happiness chance to lie along the lines of productive endeavor. Better deprive him of the only other thing guaranteed him by our Constitution—life itself—than to leave him that, while taking away from him all that men have found has made life worth living.

As has already been said, the states would never have ratified the Constitution had it not been for the guarantees furnished by the first ten amendments, both to the liberty of the individual states and of the individual citizens. Are we wise to do away with these safeguards of liberty? If we do so, are we even remotely fair to the youth of today? Is it justifiable to deprive young men and women of their inherent rights—the right to earn a living, the right to take their share of the family burdens, the right to put themselves through college should they so desire, the right to help in the work of the

world—just because some people with ill-developed zeal want, for one reason or another, to deprive them of these rights?

Far more important, however, than the unfairness and injury to children which this amendment will entail, great as that is, is the danger to the country in the present tendency to centralize government in Washington. The second section of this amendment is a specious attempt to make it appear that the power of the states is not interfered with by the first section. Of course, it is absolutely done away with under the age limit of the amendment, and this section can therefore have no other object than to mislead. It is as follows: "Section 2. The power of the several states is unimpaired by this article, except that the operation of State laws shall be suspended to the extent to give effect to legislation enacted by the Congress." As well say, after condemning a man to hang for the crime of murder, "The freedom of a man to live his own life after execution of the sentence is unimpaired by this action of the court."

Madison, in speaking of the powers reserved to the states by the Constitution, says: "By the superintending care of these (that is the states) all the more domestic and personal interests of the people will be regulated and provided for. With the affairs of these, the people will be more familiarly and minutely conversant." These powers were reserved to the states most carefully and of excellent purpose, and because of the enormous expansion of the territory and the population of the United States their regulation by the states is even more important now than when the Constitution was framed. John Fiske says: "If the day should ever arrive when the people from the different parts of our country should allow their local affairs to be administered by prefects sent from Washington, and when the self-government of the states shall have been so far lost as that of the Departments of France, or even so far as that of the counties of England, on that day the progressive political career of the American people will have come to an end and the hopes that have been built upon it for the future happiness and prosperity of mankind will be wrecked forever."

CHILD LABOR ON THE FARM

By H. H. Harrington

From the *Progressive Farmer*, September 13, 1924.

A current magazine calls attention to the fact that, according to the census department reports, the child labor situation is improving. The number of children between the ages of 10 and 15 years that are now engaged in gainful employment, according to the census

department, is 1,060,858, a decrease of nearly 50 per cent from the 1910 census report; but the magazine speaks of an overwhelmingly large proportionate number of these as employed on the farms, and emphasizes the fact that agriculture, and not the factory, provides the greatest child problem.

This statement on the surface is true, but it does not go behind the returns in order to show why it is true. The statement merely emphasizes a fact to which I have so often called attention in these columns, that farmers are not properly paid or that farming as an industry is not sufficiently remunerative, when compared with other vocational and professional lines of work. This unjustifiable and unequaled condition exists, too, in spite of the industry and economy of our farming classes. Child labor on the farm would not be a problem worthy of any serious consideration if farming as a vocation paid in proportion to the salaries commonly given to union labor.

There is another phase of this condition which the magazine failed to mention, and that is that farmers do not employ their children at labor during the time when they should be at school, except from force of circumstances. They do not, in other words, impose any hardships on their children which the farmer and his wife themselves are not daily undertaking to go through with. The mother who takes her little children to the field with her, one of them perhaps a baby, and puts them under the shade of a tree while she chops cotton or picks cotton, is not doing this from any motive of gain, but from the sheer necessity of helping to provide herself and her children with food and clothing.

CHILD LABOR A NECESSITY

In other words, children ordinarily are not put to work in the fields because of any unjustifiable desire for money or gain, but purely because of the necessity of supplementing the labor of the farm in order that the family may have the barest necessities of life.

We have a compulsory school law, and the principle of it is commendable. In most cases when it is violated it is not because the parent fails to see or appreciate the importance of at least a high school education, but because the parents see no other way of accomplishing a scant living.

We hear from almost every source the necessity for a better rural education. We talk of better schoolhouses, better paid teachers, larger school districts, providing transportation to and from school, longer school sessions, and have actually provided free textbooks and compulsory attendance; and yet we haven't really met the issue. The thing to do is to give the farmer more money for the price of his labor—that is, the price of his labor as represented by the crops

which he has for sale. Make farming pay, and then "All these things will be added unto you."

Texas seems to have established a definite policy of aiding the rural schools by appropriations directly from the State treasury; thus suplementing the permanent school fund arising from the sale of the public domain of the State that was donated or set aside for public school purposes. I am in hearty accord with this policy; and yet, why should it be any more necessary for the State to furnish direct aid to the country schools than to the city schools? Merely because farming as a business does not pay like other lines of business conducted in cities which bring wealth to individuals and to municipalities. Therefore, the State finds it necessary to help in some way toward the education of the farmers' children.

In a sense, this is paternalism and justified only on the ground that because the farmer does not have an equal opportunity in the industrial system of our body politic, society must, for its own protection, see that the children of the rural districts are educated. But would it not be better to provide means by which this economic condition could be corrected, and thereby every community maintain its own independence by contributing to its own educational needs?

The truth of the matter is, that while nature has provided us with greater agricultural facilities as to soil and climate than enjoyed by any other nation on earth, the farming classes of this country, at least since the Civil War, have paid tribute to the manufacturing and commercial classes. They have simply not had economic justice before the law, and they do not get justice by any system that proscribes as it prescribes their opportunities; a system that levies tribute upon their labor in such amount as legislative action may determine, and then contributes to their needs by appropriations from the public treasury. So long as the "system" continues, so long will child labor be a problem and a practice on the farm, and so long will it be necessary for both the State and Federal Governments to give special supplemental aid in various ways to our rural population.

It may be said that the farmers themselves are responsible for this condition of affairs, and in a sense that is true, but it is also true that there are conditions and influences that are apparently beyond the control of the farmer which have made it practically impossible for farmers to direct an economic policy that would inure to their benefit, as the manufacturers have done, for the development and protection of their industry. Or the cynic might reply that if farming does not pay, let the men do something else. This hardly needs a reply by the farmer. The difficulties in the way are known to him and the public generally if not to the pessimist, who, as a rule, doesn't really want to know the truth.

I am fully aware that I am discussing a condition without offering a remedy. Many remedies have been proposed from time to time, or rather many attempts on the part of farmers themselves, to improve their economic conditions. Of the late attempts it seems to me coöperative marketing, as advanced by the Farm Bureau, is the latest and most advantageous method of relief. For the first time in the history of the country, so far as I know, the "farm block" has undertaken to give some relief by legislation. They can help, but, after all, systematic organization sustained through a long number of years seems to me the only thing that can bring economic relief to the farmer.

PROHIBITION—OF WORK

THE PROPOSED TWENTIETH AMENDMENT: ITS FALSITIES AND WHAT IT WILL MEAN TO THE LIFE OF THE NATION

Extracts from a pamphlet prepared by James A Emery, published in the *Manufacturrs' News*, August 30 and September 6, 1924.

. . . Amendment of the Constitution is a serious matter. The pending proposal makes an especially plausible appeal, since it is popularly known as the "Child Labor Amendment."

A critical examination of the proposal will, it is submitted, demonstrate that

1. It is not confined to what that title suggests;
2. It is a grant of exclusive power to the Congress which, directly and by implication, confers complete control over all persons under 18 to an extent not now possessed by any State of the Union;
3. It proposes a revolutionary transformation of the traditional relation of local and Federal Government;
4. It is unnecessary to cure the alleged evil for which the grant is declared indispensable. The evil itself is grossly exaggerated by the proponents of the proposal, and the fact is ignored that the problem of protecting child life has been, and is being, more effectively met by the states, particularly during the past decade, than perhaps any other like social problem;
5. The proposed amendment must inevitably ultimate in legislation establishing extensive and costly bureaucratic control of the life of minors, their relations to their parents and guardians, their training and education, and all the circumstances of their contribution to the support of themselves or their own families, in the home, on the farm, or in any commercial occupation;
6. The proposed amendment would operate to impair the existing sense of local responsibility for the remedy of local conditions, and

tend to substitute for the natural respect for local law the distrust and animosity which springs from remote, unreachable, and irresponsive authority. It would tend to excite sectional divisions and dissensions, and, while centralizing authority, lessen respect for the government which wields it, and overwhelm it with administrative detail. . . .

The present amendment, after brief debate, was submitted to the states for ratification by the house, April 26, 1924. Yeas 297, nays 69, and by the senate June 2, 1924, yeas 61, nays 23.

AMENDMENTS TO AMENDMENT DEFEATED

Prior to the vote in the house submitting the amendment, various amendments were offered to it, each and all of which were defeated. These proposed to require its ratification within seven years, to submit the proposal to conventions called by the legislatures in the respective states, to exclude from the amendment the labor of persons under 18 years within a house or business or upon the farm of the parent, or in houses around farms where such children reside. Before the final vote in the senate, amendments were proposed and rejected which would have excluded from the terms of the proposal outdoor employment for agriculture and horticulture. It was further proposed to reduce the age limit to 16, to strike out the power "to prohibit," to require ratification within five years, or to confine the congressional power to occupations of special hazard.

The effort to secure a submission of the proposed constitutional amendment either to conventions of qualified voters in the respective states, or convened under legislative direction, expresses the realization that all new grants of power should be derived from the people. If ratification is merely obtained through a majority of thirty-six legislatures, less than 2,400 legislators can radically change the Constitution under which 110,000,000 people live.

CONGRESS ASKS GREATER POWER THAN ANY STATE NOW POSSESSES

The first section of the proposed amendment would grant to Congress the power to "limit, regulate, and prohibit the labor of persons under 18 years of age." It will thus be observed that the word "children" is not employed, and the age limit of 18 includes plainly not merely all who may be described as children, but all who are commonly regarded as youths. The age limit, it may be observed, is two years in excess of that fixed in either of the "child labor" statutes which were invalidated. Neither is this grant of power confined to regulation, but it includes the right to "prohibit" labor of any person under 18. It is commonly said by the proponents of the

proposal that it is intended merely to give Congress the power which the states presently possess over the same subject. It is not open to dispute that no State possesses the power to prohibit the labor of all persons under 17, much less 18 years of age. It cannot be doubted that if any State were to attempt the enactment of such a general prohibition the legislation would be invalidated, either under the provisions of the State Constitution, or the fourteenth amendment of the National Constitution. Congress therefore asks a greater power than any State now possesses.

Power to prohibit, moreover, carries of necessity the power to fix the conditions under which any person under 18 may be permitted to earn his livelihood. It confers the power to determine not only during and within what hours employment may be taken, but the character of the employment, the wages which must be paid, the education or training which must be had as a preliminary to its acceptance. It must be remembered that the power to regulate or prohibit runs against parents or guardians, either in the home or on their own premises, farms or other places of occupation.

Thus we must observe not only the direct power sought to be granted, but that which is conveyed by necessary implication. This is peculiar to every grant of political power, which always carries with it every authority necessary to make the grant effective. From power to declare war we imply the right to draft our citizens and to take exclusive control of factories, farms, railroads, and even stores, to make the conduct of national defense successful during war. The power to regulate commerce includes the power to exclude things from it, whether diseased or otherwise dangerous, to fix rates, control distribution of facilities and the conduct of passengers, managers, and employees, including their respective liability.

So, the grant of power in the proposed amendment would, by necessary implication, authorize Congress to enact legislation to levy taxes, appoint officials, create bureaus, commissions or boards, to make itself effective. It may determine how all persons under 18 may be occupied, the nature and extent of their training and education, and the obligations that shall be required of their parents or guardians. The whole subject of education, so far as it relates to conditions precedent for employment of persons under 18, passes completely to the Congress, and under the second section of the proposed amendment the power of all the states recedes with respect to all these subjects as the power of Congress is exercised.

CONGRESS WILL CONTROL CHILD LABOR ON THE FARM

It has been said that the proposed amendment does not contemplate the early enactment of legislation aimed at the control of farm

labor. The gratuitous assumption respecting future enactments is met not only by the fact that Congress is to be granted exclusive control over the labor of all persons under 18 years on the farm, even to the point of prohibition against any request of the parent, but every effort to exclude horticuluture or agriculture, or any form of outdoor work, from the terms of the amendment was defeated by its proponents. Moreover, the National Child Labor Committee, the chief proponent of the amendment, distributed to every congressman prior to the vote on the proposal, booklets which carry the plain implication that labor upon the farm needs legislative attention. Thus the pamphlet points out that, under the census of 1920, 647,309 boys and girls between 10 and 15 years of age, inclusive, are engaged in agricultural pursuits. Again, the booklet states, "agriculture is the only important field of work entirely uncontrolled by legislation." Again, "the South, because of its agricultural character, still leads in child labor." Legislators are told "agriculture employs three-fifths of the million child laborers," and "investigation shows that there are many of these at work in sugar-beet fields, cranberry bogs, cotton plantations and other agricultural pursuits throughout the country."

The Child Labor Committee further urges on the attention of Congress that "the 1920 census was taken in January, a season when little or no agricultural work is being done," hence "many children who ordinarily follow agricultural occupations are reported by their parents as having no employment."

Many more paragraphs of this booklet, of the argument of proponents before committees and of their other publications are devoted to emphasizing the necessity of Federal regulation of child labor on the farm. One may properly ask if it is not intended to employ the power granted to secure Federal supervision of farm labor, why is the power demanded, which no State now possesses, to prohibit the labor of all persons on the farm under 18, and why have the proponents of such legislation resisted every effort to limit the power sought, as through the Federal Child Labor Acts of 1916 and 1918, to those under 16 engaged in mines, quarries, or manufacture?

The figures of the Federal census for 1920, considered elsewhere, show that 88 per cent of those under 16 who are partially or occasionally, as well as constantly, employed at any farm task, reside in the home, and any work they perform is on the farm of their parents. Is it to be conclusively presumed that Federal legislation and a Federal bureau is essential to protect such children against their parents?

Mr. Gray Silver, legislative representative of the American Farm

Bureau Federation, appearing in opposition to the proposed amendment, emphasized that the proposal "does not find a favorable response among the farmers," and declared "the farmers will be among the first to resent the activities of the Federal bureau if it tries to take the place of the parents by telling the children what duties they should or should not perform and what kind of work they should do. In fact, I believe such a proposal is unnecessary, especially as it might apply to the families on the farm." He continued to point out "that 90 per cent or more of these children were woring at home at the lighter tasks involved in farming—learning as they worked."

CONGRESS WILL EXERCISE ALL POWERS GRANTED IT

Thoughtless students of government insist that the issue of whether or not power ought to be granted to a political agency is to be determined by the declaration which those who favor it make as to the use to which it will be put. Those who propose the amendment can neither bind the Congress which would employ the power granted, nor any Congress in the future. The experience of history, and of the recent past, is that Congress repeatedly exercises the new power which it receives. It was urged that the sixteenth amendment should be enacted in order that the government might possess the power to levy an income tax during an emergency like war. No sooner was the power granted than it was exercised in time of peace, and under the amendment the power has been exercised to an unanticipated degree.

Popular institutions represent not merely an endeavor to establish government, but to protect the people against the agencies which they create. Thomas Jefferson, the Father of Democracy, more than a century ago disposed of the suggestion that grants of political power were to be made upon the assumption that they were not likely to be abused. In a famous statement he said:

"It would be a dangerous delusion if our confidence in the men of our choice should silence our fears for the safety of our rights. Confidence is everywhere the parent of despotism. Free government is founded in jealousy, not in confidence. It is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power. Our Constitution has accordingly fixed the limits to which, and no further, our confidence will go. In questions of power, then, let not more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."

Having thus considered the nature of the power which it is proposed to confer upon Congress, I thus contrast this grant with the division

of authority between the local communities and the central government, which has hithereto been regarded as elementary in the American theory of government. With a tradition of growth from the shire to the town, the county, municipality, and the State, our people reached to the conception of a central government, to which the states and the people made specific grants of authority. Alexander Hamilton, a leader in the establishing of a necessary central authority, thus pictured the Federal function in the *Federalist:*

"The common defense of the members; the preservation of the public peace, as well against internal convulsions as external attacks; the regulation of commerce with other nations and between the states; the superintendence of our intercourse, political and commercial, with foreign countries."

James Madison described powers to be held by the states:

"The powers reserved to the several states will extend to all the objects which in the ordinary course of affairs concern the lives, liberties, and properties of the people and the internal order, improvement, and prosperity of the state. . . .

"By the superintending care of these (the states) all the more domestic and personal interests of the people will be regulated and provided for. With the affairs of these the people will be more familiar and minutely conversant."

Mr. Jefferson, who emphasized the importance of perpetuating the states in their integrity, declared "the true barriers of our liberties in this country are our State governments."

Many causes with which we are familiar have operated naturally to more constantly centralize authority, but these have been accompanied at all times by insistence upon the necessity of preserving the community's control over its local affairs, not only because they were best informed respecting their nature and the remedies for them, but because the vitality and respect for new rules of conduct essentially depend upon the acceptance and preservation of local responsibility for the meeting of local conditions and the creation of a body of opinion which expresses itself, when regulation is necessary, in a rule which springs from perceived conditions and necessity for the regulation adopted.

Long ago Mr. Jefferson pointed out that "to take from the states all the powers of self-government and transform them to a general consolidated government, without regard to the special delegations and reservations solemnly agreed to in the Federal compact, is not for the peace, happiness, or prosperity of these states."

Our great commentators and philosophers among historians, judiciary, and political students, have again and again emphasized the latent dangers of withdrawing local affairs from local government

to repose them in remote bureaucrats. Our eminent historian, John Fiske, declared:

"If the day should ever arrive when people of the different parts of our country should allow their local affairs to be administered by prefects sent from Washington, and when the self-government of the states shall have been lost . . . on that day the progressive political career of the American people will have come to an end, and the hopes that have been built upon it for the future happiness and prosperity of mankind will be wrecked forever."

UNPARALLELED GRANT OF AUTHORITY

This tendency has already gone so far that we must necessarily view with apprehension the most extraordinary and unparalleled demand for a grant of congressional authority over the most intimate of relations within the family. From conception to death the citizen is now moving under a body of control emanating from Washington. The original concept, confining national control to defense, foreign relations, commerce, currency, coinage, the postal system, has now shifted to such ordinary affairs as health, gambling, prize fights, physical training, censorship of the press, moving pictures and literature, the control of game, birds, hunting and fishing reservations, labor contracts, maternity aid and vocational training. We are familiar with the growing demand that the government shall enact lynching laws, regulate marriage and divorce, despite the strong tradition of communities as widely separate in their views as South Carolina, which recognizes no grounds for severing the marriage bond, to Nevada which offers more than a score. Hamilton's fear that the powerful states would encroach upon the nascent Federal domain, is succeeded by a real fear that the dominant central government will overwhelm the little that remains of the states. Certainly you will search in vain among the great advocates of the new central authority, like Hamilton and Marshall for any support for such encroachment as is sought today on the principle of local self-government in local matters or the police power of the states.

It is not alone that we face a steady departure from the clear-cut and explicit plan of government, which entrusted matters of a strictly national character to Washington and reserved all else to the states for the people, but we are overwhelming the central government with duties of administration, unduly increasing its cost and making humanly impossible its task. As the food, drinks and morals of the citizen's daily life become more constantly subject to this enlarging bureaucracy, the citizen, in the language of Pierson in "Our Changing Constitution," "if he will only stop and think, he must realize that no one central authority can supervise the daily lives of 100,000,000 people, scattered over half a continent, without becoming top-heavy.

. . . Shall the conduct of citizens of Mississippi be prescribed by vote of Congressmen from New York, or supervised at the expense of New York taxpayers? Will an educational system suitable for Massachusetts necessarily fit the young of Georgia? Such suggestions carry their own answer." * * *

To preserve the balance of which, in the language of Salmon P. Chase, the Constitution always looks—"an indestructible union composed of indestructible states"—it is essential that the Federal principle be protected against misuse, and especially that we shall not embrace a swollen bureaucratic system which inevitably weakens the central authority and, in the language of one of our greatest students of government, is the "forerunner of disintegration and even of separation."

What then shall be said of a grant of power which can be administered only through bureaus and must accommodate itself to the varying local circumstances, to the vast and highly diversified local life, of this Nation—for even the Congress, when it enacted a model child labor law for the District of Columbia, exempted from its provisions "children employed in the service of the Senate." The grant of power proposed cannot be local and is not likely to be modified. It is asserted that it will not be employed to the extreme in which it is granted. But such declarations from its proponents bind no one.

Will then the people of the states grant to the Congress this extreme power over the minor life of the Nation, by which it can be made a punishable offense for a father to require a 17-year-old boy to perform a household task, or penalizes a mother who requires her 17-year-old daughter to wipe the dishes, and which can prohibit any person under 18 from earning his living at any occupation or performing any task or contributing to the support of a household, or else permit that to be done only under such conditions as a remote majority from distant states may determine? The people of no State have granted such power to their local government. Will they grant it to any central authority in which the representatives of their own State are a small minority?

What then is the overwhelming necessity which demands that such power be ganted?

WHAT NECESSITY EXISTS FOR THE PROPOSED LEGISLATION?

It is said by the Senate Committee to rest upon the proposition that Congress having twice sought to exercise the power, the public may be supposed to believe that it ought to possess it. If that were a valid argument, Congress ought then to possess all the forms of power which it has vainly endeavored to exercise in the course of our political history. It is further urged that the Nation has an

interest in the protection of its future citizens, which indeed is true. But that argument rests upon the final declaration that the states have so neglected the effective protection of child life that Federal intervention has become necessary. If this be a fact, then indeed a strong case can be made, if not for this grant of power, then for at least giving to the Congress the authority to perform a duty which the states have not met.

What then are the facts? In a communication made by the Secretary of Labor to the Senate Judiciary Committee, and in the various arguments made by the representatives of the Children's Bureau and the National Child Labor Committee to the committees of Congress and to popular gatherings, it is constantly asserted that there is urgent need for congressional intervention; that more than one million children under 16 years of age are gainfully employed, and the impression is conveyed that this employment is fairly continuous and of a nature which threatens their health, education and, at times, their morals.

What then is the basis of these statements? And is there progress or retrogression in the State regulation of child labor which necessitates a grant of congressional power?

According to the census of 1920, there were in the United States 12,502,582 children from 10 to 15 years of age inclusive. Of this number 1,060,858 were gainfully employed, 647,309 in agricultural pursuits, and in non-agricultural occupations 413,549. Of these engaged in agriculture, 88 per cent, or 569,824 did work on the farms of their parents where they resided. It is apparent then that but 77,485 could be said to be engaged in any form of agricultural occupations outside of the home farm, and these alone would be the subject of legislation under the so-called child labor amendment, unless a regulation or prohibition of work by children on the farm of their parents is intended.

This leaves 413,549 occupied in non-agricultural employment. When this census was taken, the Child Labor Tax Act of 1918 was in effect, and those 14 or 15 years of age, numbering 364,444, must be presumed, with few exceptions, to have been legitimately employed. There would thus remain 49,105 from 10 to 13 years old, or less than 50,000 in the United States, engaged in non-agricultural occupations which would excite concern.

The distinguished Senator from New York, Mr. Wadsworth, discussing this matter in the Senate May 29, 1924, made the following declaration, which was never contradicted, questioned or criticized:

"Undoubtedly, some of those 49,000 are employed in such a fashion as to cause concern. Incidentally, more than one-fourth of those were newsboys. For example, there were but 622 cotton mill operatives in this group, 404 being employed in the states of North Carolina,

South Carolina, Georgia, and Alabama, and 218 in all the other states. So it will be seen that it whittles down to almost nothing. There are only 404 in the four Southern cotton mill states, and there is only a bare presumption that any of the 404 were illegally employed—that is, were below the age limit. A great deal of the outcry and uproar has been directed at those same four states on account of the alleged conditions existing in cotton mills, and we find the conditions do not exist."

But it must be borne in mind that the figures of the census of 1920 did not include merely persons under 16 who are continuously employed. It included all kinds of intermittent work done by school children outside of school hours, and all forms of legal employment under the Federal Child Labor Tax Act, which was enforced at that time.

The director of the census in a letter to the chairman of the Judiciary Committee of the House, under date of March 18, 1924, said:

"It is generally recognized, of course, that the great majority of the children reported by the Bureau of Census as engaged in agricultural pursuits were not, as a matter of fact, working with any high degree of regularity or continuity. Of the 647,309 children 10 to 15 years of age reported as engaged in 'agricultural, forestry, and animal husbandry' in 1920, 569,824, or 88 per cent, were farm laborers, on the home farm, and it is very probable that a majority of the remaining 77,485 worked either for, with, or under the direction of their own parents. The work of these children varied from a few weeks or months work each year to regular employment throughout the year."

Of the two groups of children 10 to 15 years old in some form of agricultural occupation other than work on the home farm, 77,485 and those from 10 to 13 in non-agricultural pursuits, numbering 49,105—one-quarter of whom are newsboys—a total is presented of 126,590. Can it then be contended that the employment of 126,590 children out of 12,502,582 demands the grant of power to Congress which is sought? There is no evidence that the employment is other than intermittent, is dangerous to health or morals, or to the extent that such is the fact, it will not be corrected by the states with the rapidity which has characterized their progress in dealing with this subject.

STATES MAKE PROGRESS IN CONTROLLING EVIL

That the states have made remarkable progress within the decade from 1910 to 1920, the following extract proves:

"The census of 1920 records a considerable decrease since 1910 in the number of children reported at work. Although the total child

population 10 to 15 years of age, inclusive, increased 15.5 per cent during this period, the number of working children reported decreased almost half (46.7 per cent). A corresponding decrease took place in the proportion of all children of these ages who are employed in gainful occupations, from 18.4 per cent in 1910 to 8.5 per cent in 1920."

Again, the Children's Bureau informs us:

"State standards relating to the employment of children were also raised in a number of states during this period. Laws fixing the minimum age for going to work were strengthened in at least one-half of the states, either by raising the age or by increasing the number of occupations to which the law applied, or in both ways. In many states these measures were supplemented and the number of child workers consequently reduced by raising the educational, physical, or other requirements which a child must meet before being permitted to go to work. The number of states fixing a maximum working day of eight hours for children under 16 in any considerble number of occupations increased from 7 to 28, and the number of those having no prohibition of night work of such children fell from 23 to 7 during the decade. The possibility of adequate enforcement of these various regulations was increased by both legislative and administrative action. Moreover, the standards of compulsory education laws were generally raised so that fewer children could leave school for work."

The same publication quotes the census of 1920 as showing the employment in manufacturing and mechanical industries for the whole United States as 9,473 between the ages of 10 and 14. It must be presumed, in view of the operation of the Child Labor Tax Act, that such employment was either intermittent or occasional, under certificates which authorized it because of particular circumstances.

It must furthermore be remembered that during the decade 1910-1920 there have been inaugurated mothers' pension laws, which provide for the care of children in the parents' home on public funds, and thus not only save the child from any form of institutional life, but secure school attendance and make its employment to aid the mother if necessary, a possibility.

Every State now has compulsory school attendance laws, and 26 requirements and provisions for continuation schools. The 48-hour week has become general in industrial states, all but three states, and these substantially non-industrial, prohibiting night work for children. All save three states have adopted a 14-year minimum for employment, and substantially all states in which mining is an industry of importance, have adopted a 16-year minimum while "most State laws prohibit children under specified ages from engaging in certain hazardous or unhealthful occupations, and a number give to a State

board power to determine from time to time what occupations are dangerous or injurious and to prohibit children from working in such occupations." (Children's Bureau Publication No. 114, Second Ed. p. 21.)

Many statements commonly made as to conditions of child labor which were true a decade ago, or even five years ago, are not true today. Thus, in the Secretary of Labor's letter to the Judiciary Committee of the Senate, statements as to very young children working in oyster and shrimp canneries referred to conditions in 1918 which did not exist in 1922 and are not likely to exist today. In the same letter reference is made to over 500 boys under 14 employed in coal industries. The "American Child," published by the National Child Labor Committee, declares in its issue of April, 1924, that only five boys under 16 were found in 100 collieries in the anthracite regions of Pennsylvania after careful investigation. Much of the discussion upon which the proponents of the proposed amendment depend refers to the past and is completely contradicted by the above facts, and the declaration of the chief of the Children's Bureau, recognizing in child labor legislation "a definite tendency to advance."

The National Child Labor Committee declares in its own publication that it "is gratified by the progress of child labor reform during the 20 years of work. The contrast in conditions is striking." One of the keenest students of the problem, and an advocate of the proposed amendment, Mr. Raymond G. Fuller, in his work "Child Labor and the Constitution," says: "Nine out of ten people still think of child labor in terms of bygone conditions or of conditions that represent only a fraction of its total amount today. They think of it in terms of the spectacular, horrible conditions calling for drastic methods of reform. Such thought does not fit the present situation. The worst evils of 40, 20, even 10 years ago have been removed or vastly abated."

Such, then, is the accumulating evidence of the determination and efficiency with which the states have met the child labor problem. In what other field of social reform has progress been more rapid or more continuous? How then can it be said, in the face of evidence provided by the proponents themselves, that the states are neglecting the subject or that local opinion is not alive to its responsibilities and is not meeting them? What support do these facts give to the demand for an unprecedented grant of power, including congressional intervention between parent and child and exclusion of the states from meeting one of the most serious of their responsibilities in terms of the local conditions from which they grow and in a manner which would assure understanding and respect for local law?

SO-CALLED CHILD LABOR AMENDMENT

BY G. M. KNEBEL.

Reprinted in *Farm and Ranch*, December 6, 1924, from *Texas Commercial News*

In this day of high living expenses and among the large families that are often deprived of the earnings of a father or his earnings may be insufficient for the support of the family, it is often necessary that young people above 16 years of age earn part of the living expenses. Take, for instance, the widows of large families and with healthy youngsters between ages of 16 and 18 who would not be permitted to work unless they have a special permit from the governmental bureau with its headquarters in Washington. We think that this whole matter should receive the most careful consideration and study by the citizens of our State as it resolves itself into the question of whether the parents or our State shall control their homes, or if it is best to relinquish this authority and turn it over to the United States Government.

SMALL PER CENT UNDER SIXTEEN.

The United States Government census of manufacture which was taken during the year 1920 for the peak year of business and industry, the year of 1919, was without doubt the most reliable census ever taken by the Government, and its report shows that out of the 130,911 persons engaged in the industries of Texas there were only 471 boys and 28 girls, a total of 499, that were under 16 years of age, which is less than one-half of 1 per cent.

When we come to think of it, it is really amazing that it is at all possible to show such a small percentage that are employed under 16 years of age in the industries of the State, and all so employed are working under special permits from the county judges which are only granted in the most extreme cases, and only after certain conditions of the law have been complied with. We doubt very much whether any other system can possibly be an improvement on the splendid conditions found in the industries of Texas regarding child labor. The Industrial Welfare Commission made a careful survey a few years ago as to working conditions, more particularly as to the female and minors, and made the following report: "Of the 16,315 employes coming under observation in above survey in all industries only 121 of these were minors under the age of 15 years, and these working under permits from the county judge."

Child Labor Not Desired by Our Industries.

The above figures should also set at rest the charges that are being made from time to time that our State laws regarding child labor and compulsory education are not being enforced. As we have often stated in discussing this matter, the industries of the State do not want child labor, and it is only in the most extreme cases of necessity in the family where some few workers are accepted from time to time, and only after the case has been thoroughly investigated by the county authorities and proper permits granted, and even under these conditions it is impossible to provide for the many applicants, as the workers of this class are only placed in occupations where the work is light and not harmful to their future development.

Our child labor and compulsory education laws have been examples for other states to follow, and the thing that is most needed in Texas is not more laws and restrictions, but more industries to provide work for the thousands that are constantly seeking employment. In those sections of the State where the people are constantly employed, we find our happy communities.

AN UNNECESSARY AMENDMENT.

By William E. Gonzales.

Taken from *The Forum*, January, 1925.

The Twentieth Amendment to the Federal Constitution submitted to the States by Congress for ratification provides:

> The Congress shall have the power to limit, regulate, and prohibit the labor of persons under 18 years of age. The power of the several states is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress.

In passing, it might be suggested that a Congress jealous of the seriousness and dignity of the country's fundamental law and respecting the memory of the original drafters thereof might have hesitated indefinitely before proposing to incorporate in that instrument a proviso so disingenuous and silly as the concluding sentence of the above Amendment. Thrown as a sop to states rights, it is too transparently fraudulent in its mission to be deceptive, since its interpretation must be that "the power of the State is unimpaired" except where the states would go contrary to the dictation of some Child Labor Board in Washington, when, in the vernacular, "the states will be told where they get off." They would have the "power" of jumping jacks.

Within the limitations of this article it is practicable to do little more than present an array of the major points against the proposed Amendment without elaborating argument.

The Amendment contemplates a direct and violent infringement of the rights of the states to govern themselces. Why should the states forever surrender to the Federal Government the absolute powers over, and paternalistic control of, their own citizens which those states are better qualified wisely to employ?

Before proceeding further it might not be out of place to give a moment's consideration to the genesis of State rights; and why, many Congressmen and State Legislatures to the contrary notwithstanding, they should be sacredly guarded and maintained. A citizen of this country is peculiar in having a dual citizenship. His rights as a citizen of the United States are the same wherever he may reside, but his rights as a citizen of New York may differ widely from his rights as a citizen of Oklahoma. This condition exists because of the action of the Thirteen Original American Colonies. As colonies they declared, fought for, and won their independence from Great Britain. Each of them was then an independent sovereign. Drawn together by trials, suffering, and common aspirations, they agreed to unite to promote the general welfare; for tranquility, strength, and justice. The general government created as a result of that agreement among the thirteen sovereign states was clothed by them only with such powers as their wisdom and experience taught them could best be exercised by one rather than many authorities. Those powers are enumerated in the Eighth Section of the First Article of the Constitution of the United States; all other powers were reserved by the states, which were the original custodians of all sovereign powers, and only delegated to their creature, the United States Government, those which they designated in the Constitution as "Powers of Congress."

No authority not essential to general government was delegated; no power touching control of a State's internal affairs was surrendered. The Federal Government was conceded no police power; it cannot punish for crime except in the narrow field of offenses against the postal and revenue laws, counterfeiting, etc.; and this only because having been given control of these matters, power to punish accompanied control,—as power to punish would adhere to Federal power to regulate and prohibit labor. That the police power to regulate labor conditions is a prerogative retained by the states, a right only of the states, is not open to question. It is conceded by this petition from Congress to the states that they surrender one more of their sacred birthrights. For the right of self-government, the right to regulate the local affairs of each State as seems best for the people

of that State and wisest under the particular conditions locally existing, is a sacred birthright. It was so regarded and jealously protected by the Original States occupying the strip of territory bordering the Atlantic; the need and wisdom of local control is vastly greater now when some states are 3,000 miles apart, with divergent and even conflicting local problems and interests.

NO NECESSITY FOR AMENDMENT EXISTS

This Amendment is proposed to the states under authority of the Fifth Article of the Constitution which provides: "The Congress, whenever two-thirds of both Houses *shall deem it necessary*, shall propose amendments to this Constitution. . . ." How many of those Congressmen voting for the Amendment did so in obedience to that Article? How many could with honesty justify on the ground of "necessity" their proposal that Congress, through one of its creature-bureaus, should have absolute control, not of the "*employment*" in hazardous callings, but of the "*labor*," with or without compensation, of 18,000,000 youths of this country between 10 and 18 years of age? When no State in the Union has forbidden "employment" of youths above 16 years of age, and when many of the child labor prohibitive laws do not extend control beyond the period of "child" life, which is generally accepted as ending at 14, the Congress presumes the "necessity" of giving a blanket commission, with absolutely unlimited authority and with the power of the United States to enforce its mandates, to some board with power "to limit, regulate and prohibit" the "labor,"—on farm, in factory, at fireside,—of "persons" under 18 years of age. And there are between seven and eight million of such "persons" between 14 and 18 years in the United States. . . .

South Carolina is a large cotton manufacturing State, with a population about equally divided between whites and negroes. The 1920 census showed 24.4 per cent of the children between 10 and 15 "gainfully" employed; of these 21.9 found their employment in agricultural work,—principally in picking cotton during two months of the year. In Rhode Island 13.4 per cent of children from 10 to 15 were gainfully employed, and but two-tenths of 1 per cent of them in agricultural work. In the nine principal cotton-growing states 18.1 per cent of the children from 10 to 15 years were employed; 16 per cent found such employment in agriculture, and principally "on the home farm." At the same time the average of such child labor employment in the five states of Massachusetts, New York, Rhode Island, Pennsylvania, and Connecticut was 8.1 per cent, while the percentage of those employed in farm work was three-tenths of 1 per cent.

The above census figures are cited to demonstrate the unsoundness of the frequent allegation that Southern opposition to Federal control

of labor springs from the South's profit from labor of children of 10 years in the cotton factories. Nothing could be further from the truth. The percentage of such labor in South Carolina up to 15 years, in *all* non-agricultural employment, is 2.5 per cent; in Rhode Island it is 13.2 per cent. And the Rhode Island problems and Rhode Island people are different from those of South Carolina and must be met and treated differently. Where pressure is needed to effect reforms in states, that pressure can be applied to those states.

How does Congress reconcile the assumption that it is *necessary* for it to be delegated power to prohibit *all labor* of persons under 18, with its "war revenue tax" imposed in 1918 and later declared unconstitutional by the Supreme Court? That law provided a 10 per cent tax on net profits of mines in which children under 16 were employed; or of mills, canneries, workshops, or factories in which children under 14 were permitted to work, or where they worked, between 14 and 16, more than eight hours a day, or more than six days a week, or at night,

"Is not the South inconsistent" asked a New York woman, "in opposing the Twentieth Amendment on the principle of states rights when it swallowed the Eighteenth Amendment?" An explanation of the South's action in the latter case would be another story. Suffice now to say that the "inconsistency" noted is the inconsistency of the sentry who, having slept on his post and enabled an enemy to enter the lines, is now aroused and vigilant.

DANGER OF ESTABLISHING PRECEDENT

All ably conducted governments reject the establishment of a precedent even for a present seeming advantage if they see it could be turned against them a generation hence; and so it should be with the states in regard to their constitutional rights. But the Eighteenth Amendment does not pave the way for, or strengthen the claims of, the Twentieth. Rather it should be taken as a warning to arouse the sleeping guardians of those rights. Put the youth under 18 in charge of a board with power to forbid work, and the demand to regulate the age of marriage, supervision of prisons, etc., will surely follow. In 1920 there were 24,909 "married men" of 18, and many thousands lesser age. In 1920 there were 41,626 "married women" of 16; 90,930 of 17; and 186,645 of 18. But under the proposed control of labor a husband under 18 may not be permitted to work for his wife or a mother for herself or baby. It may be legal to marry at 15 and become a "man" or "woman," father or mother, but illegal to work!

And may we be spared hearing from the proponents of this measure the inanity that the Congress or its agents, to whom extraordinary powers over eighteen million children and young men and

women would be delegated, would "use discretion" or "may be trusted to regulate them wisely!" The right sort of absolute dictator would, without doubt, govern us better than we govern ourselves, but we are not commissioning dictators for ourselves, and we should not trust the minors to their control. The Treasury of the United States does not hand even the President a signed check for his salary to be "filled in." The states must be at least as jealous of their children and youth and not create an alien authority for their improper control. The youth of the country must be protected from the *possibility* of influence or government by fanatics,—the definition of "fanatic" for the purpose of this article being, one so obsessed by a certain political idea that he is bent upon carrying it into effect quite regardless of, and with utter blindness to, the harmful or destructive results which may follow such policy.

IMPOSSIBLE OF ENFORCEMENT

A law carrying out the intent of this Amendment would be impossible of enforcement. Its design upon agricultural labor is not concealed. Julia Lathrop, ex-chief of the Federal Children's Bureau, is quoted in the Manufacturers' Record of Baltimore as saying: "This Amendment shows us the way . . . to get rid of the one thing we have never dared to tackle—*rural child labor.*" In many states, regions, and communities it would be opposed to the customs, sentiments, and wishes of the people; it would inflict dire hardship upon hundreds of thousands it attempted to control. It could not be enforced except through harsh and intolerable measures which would incite veritable revolution against the law.

Child labor that is a hardship upon youth should be condemned and fought persistently; sane protective laws by states encouraged; and strong public sentiment against the labor of children that is dwarfing them in body or in mind should be systematically fostered and built up into a controlling power. But a law with this fantastic age limit and extraordinary control of all "labor" by persons under that high limit would be destructive of a healthy sentiment for the protection of children. The arbitrary limit of 18 is absurd since there are men and children of that age. Much of the greatness of this country is due to the achievements of men of noble manhood, human sympathies, high character, and self-reliance, who owed those qualities to the fact that they had met life and *served* before they were 18.

This pernicious thing srikes at the root, not of evil but of good. It strikes at the influence of the home, for it is undermining the parental influence. It designs to give millions not "idle hours" only but idle months and idle years. It would open to millions of youths in the borderland of manhood and womanhood the evil paths of purposeless idleness, of wasteful indolence. * * * * *

WHAT CAN CONGRESS DO WITH OUR CHILDREN?

By C. A. Dyer.

Legislative Representative Ohio Farm Bureau and State Grange

From *The Agricultural Student* for December, 1924.

The proposed Twentieth Amendment to the United States Constitution is unnecessary. . . .

The states are progressing rapidly in taking care of their children and there is no need for national interference.

GIVES CONGRESS MUCH POWER

The proposed amendment is socialistic. The word *labor* includes every exertion of the body or mind, except for play. The language of the amendment was deliberately chosen to give the Congress the full power which it grants. The ratification of the amendment will give to Congress, for all time, power to control and prohibit the labor of every person up to 18 years of age, in the home, on the farm, and in the school. This would substitute the Congress for the parents, and repeal the commandment, "Honor Thy Father and Thy Mother." The aim of socialism is the nationalization of the children, and the history of the proposed Twentieth Amendment proves its socialistic origin and support. Let us hope that the day will not come when America will discard, "Children, obey your parents," and put in its stead the socialistic commandment, "Children, obey the Federal agents sent out by the National Government."

There is no demand for the proposed amendment. Its submission by the Government was obtained by a group of socialists, welfare workers, and paid "uplifters," who played on the heartstrings of the law-making body with half-truths and misleading statements. The parents of the United States did not know that the Congress was considering taking their parental authority from them. They were at home at work, raising their families, working and sweating to live and carry the already too great load of taxes.

COSTS TOO MUCH

The proposed amendment is not a "labor" amendment alone. It is also an "educational" amendment. If it is ratified, it is expected to expand the Children's Bureau at Washington and to create a National Department of Education, with a secretary in the Cabinet. The initial expense is estimated to be more than $100,000,000 a year. The standard adopted by the proponents of the amendment is as follows: "An average minimum of 16 years of age for employment in any

occupation, except that children between 14 and 16 may be employed in agricultural and domestic service during vacation." Under this standard, no one under 14 years of age could be employed at all. This standard is only the minimum, for the proponents of the amendment propose to take full advantage of the 18-year limit later on, as shown by the record of their conferences. This is proven also by the defeat of the following amendment: "Section 1: The Congress shall have power to limit, regulate, and prohibit the labor of persons under 16 years of age, but not the labor of such persons in the home and on the farms where they reside."

The proposed amendment is paternalistic. Our Government cannot be overturned by sudden revolution. The revolutionary sources at work in the United States are fully aware of this., and seek to accomplish their ends under the guise of legislation clothed in the garments of "welfare and education." They are constantly seeking some group to "uplift" at the expense of the great majority of the people. If they can thus create enough governmental expense, they can confiscate private property by taxation, and thus stifle economy and private initiative and enterprise.

The pulpit, the college, the forum, and many organized groups are infested with those who advocate such legislation. We have already started, through their efforts, on the road that leads to the destruction of civilization, and the ratification of the proposed "child labor" amendment will be another long step in the same direction.

LIKEN TO ROMAN EMPIRE

Robinson and Brested's *History of Europe* says: "The penalty of wealth seemed to be ruin, and there was no motive for success in business when such prosperity meant ruinous taxation. As the Roman Empire had already lost its prosperous farm class (by taxation), so now it lost its enterprising and successful business men. Diocletian, therefore, tried to force these classes to continue their occupations. He forbade any men to leave their lands or occupation and even tried to make craftmanship hereditary by demanding that the sons follow the occupation of their fathers. Thus the liberty, for which men had striven so long, disappeared in Europe and the once free Roman citizen had no independent life of his own. Even the citizen's wages and the prices of the goods he bought or sold were, as far as possible, fixed for him by the state. The emperor's innumerable officials, among them a regular organization of government agents, who were little better than spies, kept an eye upon the humblest citizens. In a word, the government now tried to regulate almost every interest in life, and wherever the citizen turned, he felt the irksome interference and oppression of the State. Staggering under his burden of taxes in a State which was practically bankrupt, the

citizen now seemed like a mere cog in the vast machinery of government. His whole life consisted of toil for the state."

Our forefathers rebelled against the King of England and gave as one of their reasons this: "He has erected a multitude of new offices and set hither swarms of officers to harass our people and eat out their substance." Will the people of the United States in 1924 forget Rome and our Declaration of Independence of '76?

OPPONENTS ARE UNFAIR

The proponents of the proposed amendment have been absolutely unfair in their presentation of their case to the public. They have dwelt upon the comparatively few cases of "exploitation" and have endeavored to convince the public mind that this was the only thing they were endeavoring to correct by the proposed amendment. They say they have no intention of interfering in the home, but they defeated every amendment proposed in the Congress which would have safeguarded the home. They fought before the Congress until the following amendment was defeated by 185 to 89 votes:

"SECTION 1. The Congress shall have power to limit, regulate, and prohibit the labor of persons under 16 years of age, but not the labor of such persons in the homes and on the farms where they reside."

The proposed amendment is not directed simply at "exploitation" or "child labor." It proposes to take control of the child until 18 years of age, on the farm, in the home, and at school. It is revolutionary and destructive to the principles upon which our Government is founded because: It makes the citizen the property of the State instead of leaving the State the creature of the citizen; it gives the Congress the power to deny the youth of the United States the right to life, liberty, and the pursuit of happiness; it declares the fathers and mothers of the United States unwilling and incapable of discharging their duty of rearing their children and places a Federal officer in their stead. It will force idleness, and idleness by law is as repulsive as is involuntary servitude.

STATES SHOULD DEAL WITH CHILD LABOR

SENATOR DUNCAN U. FLETCHER, FLORIDA

From *Congressional Digest*, Washington, D.C., February, 1923.

Clearly the states have the power and authority to deal with the subject of child labor in all its phases. There is no dispute as to that and the states are dealing with it. Many, if not all states, have laws that declare no child under 16 years of age shall be employed in any occupation injurious to health or dangerous to life, limb, or the morals of such child .

Florida provides a State inspector whose duty it is to see to the enforcement of the law. I know of no complaint in that regard. I deny that there is need of Federal inspectors to supervise the work of State officers, empowered to harass and inconvenience and oppress our people by arbitrary inspections, making complaints before United States commissioners, arresting and prosecuting them before the Federal courts in the process of earning their salaries. We have too many inspectors, special agents, secret service employes, and the like now, costing the people hundreds of thousands of dollars for the privilege of being watched from the time they arise in the morning until they retire at night.

Laws have been and are being enacted by the stattes on this subject, as fast and as effective as the need for them is brought home to the people. Local conditions should not be ignored, and these conditions no general national legislation can adequately meet. Granted such legislation proposed would serve a high purpose, I cannot believe it would be wise to pass Federal legislation or that it is the best way to handle the subject. It is a field already occupied by practically all the states, and the states and local communities are in position to deal with it directly and to correct every evil, national or individual, which it is desired to correct.

It is argued that the State laws are not enforced, but I answer, who is given the right to pass that judgment, and if that conclusion be true, it by no means follows the Congress has power for that reason to go into a State and interpose to correct such dereliction. That would be an unwarranted, bold assumption of power by Congress.

I can quite appreciate that in some circumstances and under some conditions the privilege of a child under 16, and even under 14, years of age to work is a blessing of the highest character. The welfare of the child, the good of society, may be subserved by the reasonable employment of such child in useful labor. Work, under proper conditions—wholesome, healthful, employment, not too hard or difficult—never on earth injuriously affected the morals of the child. Idleness, with its proximate consequences, on the other hand, voluntary or forced, has always been a fruitful source of vice and evil.

The situation does not make it necessary or justify the enactment by Congress, in the public interest, of a measure which must inevitably lead to conflict of jurisdiction, confusion of laws, and clashing of authority. Some legislation would open the way, move far along that road which leads toward the gradual destruction of the rights of the states and the undermining of the constitutional liberty Americans have not ceased to love. The leadership of the future will be founded on commercial and industrial progress. Admit the constitutionality of such legislation and you recognize a power in Congress to shackle commerce and strangle industry. When that day comes you will realize you have thrown to the winds the leadership and the power of the United States.

AMERICAN CONSTITUTIONAL LEAGUE

BY EVERETT P. WHEELER

Chairman Executive Committee

From *Congressional Digest*, Washington, D.C., February, 1923.

We are convinced that an essential part of the American constitutional system of Government is its Federal character; that while on the one side it gives to the National Government all powers necessary for the Nation in all its foreign affairs and in its interstate commerce, yet, on the other hand, it reserves to the states as a matter of equal significance the regulation of their local affairs.

We have the decision of the Supreme Court recently rendered, that this matter of child labor, under the existing Constitution, is a matter for local regulation, and we submit that that system has been one of the great elements in the prosperity of this country. It was believed so to be when we had a population of not over four millions of people and thirteen states scattered along the Atlantic seaboard. Now that we have come to have a population of over one hundred millions of people, extending from the Atlantic to the Pacific, it becomes all the more important to maintain that essential characteristic of our Government.

The reason is obvious. The conditions in the several states are widely different, and each therefore in the way of wise legislation should adapt its system to the conditions which prevail in the states.

Observe conditions in all our great cities. You will see boys and girls glad to help their parents. That is part of their training. It is useful for them, quite as useful as their schooling, I confess, until I read some of the pending amendments, and I refer especially to Senator McCormick's. I did not realize how far it was proposed to go: "The Congress shall have power to limit or prohibit the labor of persons under 18 years of age."

When I think what the boys are in this country, 14, 15, 16, 17, and of their activity, of their ability, of the extent to which they are now working; when I think of the men who have risen to distinction in this country who began by earning their own living at an early age, to say that this Congress shall have power to prohibit that, I find it hard to realize that it is seriously proposed.

Suppose the father is dead and the mother is struggling to earn a living. The State may give a pension to the widow, as New York does, but after all it is not the purpose of any pension legislation I know of to supplant the duty to do what one can to earn a living. And yet here comes in the proposition to prevent our young men and women from earning a living, from giving them honest employment

for the hand and the brain. To say that you will prohibit that means that you would make a race of paupers, doesn't it?

It is a false sentiment that reasonable work is bad; that is not the American principle that we were brought up under.

I appreciate the good intentions of the women who have been advocating such measures as this, but I would point out to them that they have taken the wrong method; that they have come to the wrong place. If they have improvements to make, for example, in North Carolina, let them go to Raleigh. If they have improvements to suggest in South Carolina, let them go to Columbia.

(Extracts from Hearings before Subcommittee of Senate Committee on the Judiciary, January, 1923.)

PROPOSED CONSTITUTIONAL AMENDMENT

From Washington *Service Bulletin*, November 1, 1924.

At the last session of Congress there was proposed an amendment to the Constitution of the United States, the text of which, and a number of impelling reasons for its rejection are set forth below.

It is not a mere amendment to the Constitution, but a revolutionary change in our form of Government.

It declares the fathers and mothers of the country both unwilling and incapable to discharge the duty of rearing their children, and puts an officer in their places.

It is a climax to governmental encroachments upon the rights, duties and privileges of the individual citizen.

It would sacrifice the civic rights of 37 per cent of the population, and those of their parents, to the whims of a growing Federal bureaucracy and thus denies to them the protection of equal laws.

It authorizes Congress to take away at will the most valuable rights that a person under 18 years, either married or single, now possesses.

It proceeds on the unwarranted assumption that Congress will legislate only with wisdom, prudence and restraint.

It ignores the distinction between youth and childhood by establishing the adolescent age of 18 years as the basis of ostensible "child labor" legislation.

It urges the forty-eight states to abandon to centralized Federal sovereignty the right to train, educate, and control their future citizens.

It would abrogate State constitutions and suspend State laws to an extent now impossible to foresee.

It will further diminish local initiative and lessen the sense of responsibility of State and local authorities.

Arbitrary national standards and departmental rules and regulations cannot be adapted to the varying conditions of agriculture, industry, education, and sentiment prevailing in forty-eight states.

To say that Congress will not exercise to the full extent all powers granted to it is to ignore the plain teaching of experience.

It would compel and stimulate a whole new structure of bureaucratic supervision and record with costly and burdensome duplications of existing local administrative agencies.

It contemplates and would inevitably produce centralized control of our entire educational system.

It gives Congress more power for the control of youth than any American State now possesses.

No limitation whatsoever is placed upon the acts of Congress except as regards to age of persons that may be directly affected.

It will subject the occupational life of the individual, the family, and the farm to the continuing harassment of Federal inspection, supervision, and espionage.

Its advocacy rests upon deceptive assertions which have no foundation in fact.

It violates the right of youth to life, liberty, and the pursuit of happiness on which American Constitutional Government was founded.

It substitutes the socialistic theory that the citizen belongs to the State for the American principle that the State is the creature of the citizen.

REMEDY WORSE THAN EVIL

From *The Independent*

Extracts from *Congressional Digest*, February, 1923.

With the current of public opinion which opposes working young children in factories we are in full and hearty sympathy. Yet we view with concern the general disposition to deal with the matter by amending the Constitution, and we shall feel it highly regrettable (unless he changes his apparent course in the matter) that President Harding should have recommended to Congress this way of dealing with the issue. We are opposed to a Constitutional amendment of this sort for two reasons—that such a remedy is worse in the long run than the evil it is aimed at; and that there is no clear necessity for resorting to it. We believe that a practical and harmless way to gain the desired end is available, and that it should at least be tried out before changing the fundamentals of our Government.

A rule that no child under 14 or 16 shall work in a factory is not a fundamental principle of government by a union of sovereign states like ours, which have delegated certain powers to the central government solely in order to accomplish specific purposes which they could not compass by their action as independent units. It is a mere police regulation. It is no different in principle from the prohibition of Sunday golf or baseball by Congress. To give Congress authority over

the conditions of child labor in the states is in principle to give it authority over every detail of the citizen's personal life and habits. The inevitable result would be a vital alteration in the basis on which our union of states now functions. Beneath certain large aspects of unity, this country is one of highly diverse conditions of race, of culture, of environment, of ideals and standards. It is a fundamental of our system that separate states have each a free hand in finding its own solutions for problems that are common and vital to all the states. Herein lies flexibility, room for experiment, and easy opportunity for retreating from mistaken positions without burdening the whole country with the error.

What the President might well do is to summon a conference of governors to discuss child labor regulation. He could make it plain to the governors of the states now lax as to child labor that the moral sentiment of the country as a whole demands a raising of their standards. He might well urge upon the governors of backward states—all of them long-time champions of "states rights"—that they appeal to their people for legislation that would forestall interference through Constitutional change. Such a solution seems to us infinitely preferable to changing the constitution.

(Extracts)

SHOULD THE NATION CONTROL CHILD LABOR?

By Iredell Meares

Attorney-at-Law, Washington, D.C.

Published in *Dearborn Independent*, November 8, 1924. The author of this article is a lawyer and in public life, and in recent years has been identified with legal departments of the Government at Washington. He is the author of recent law works and not infrequently is a contributor to the public press.

The Progressive Party platform of 1912 advocated a national child labor law. One of its aims was to secure uniformity. It proposed the regulation of the *employment* of child labor, in factory, mine, and other gainful occupations, but it was a definite measure, carrying prescribed and limited power. It did not contemplate the control by Congress of all persons under 18, which would be the result of the proposed Twentieth Amendment, if adopted, and Congress be granted the power to *limit, regulate,* and *prohibit* their labor, not their employment, as to age, occupation and condition of such employment.

The desirability of the law advocated by the Progressive Party, at that time, arose from the non-action of many states and dissimilarity of child labor laws adopted by the states, which had acted to protect working children, but since 1912 and at present, the desirability or necessity of a national law has been obviated by the states

having adopted child labor laws applicable to local conditions and bearing in their general features a remarkable uniformity.

Thus, of the forty-eight states, forty-one prohibit children working in factories, and so forth, at or under the age of 14; five states at or under the age of 15, and two states at or under the age of 16; or, it appears, in every State there are laws to protect the exploitation of child labor. Again there are laws providing against children working at dangerous occupations, as at machinery, in mines, where poisonous gases are generated, about docks or wharves, and other employments involving risk of life or limb or injury to health.

CHILDREN AND AGRICULTURE

Thirty states prohibit minors under 18, nineteen states minors under 21, and four states any female working under conditions or at occupations imperiling life, limb, or health. Further, minors cannot be employed at night work in eighteen states under ages varying from 16 to 18; in four states girls cannot be so employed under the age of 21; and fourteen states prohibit the employment of any female at night work. Still, further, the hours of labor are regulated as to minors from 16 to 17, or under, in one State; under 16 or 18 in eight states, and under 21 in three states. These three states are North Carolina, both as to boys and girls under 21, and Massachusetts and Ohio, both as to girls only under 21.

In 1920, according to official statistics, out of a population of 12,502,582 children in the United States, between the ages of 10 and 15, there were engaged in gainful occupation 1,060,858. Of these, 647,309, or 61 per cent, were engaged in agricultural pursuits, and 413,549, or 39 per cent in non-agricultural pursuits.

The Director of the Census, writing to the House Judiciary Committee and speaking of the children engaged in agricultural pursuits, remarked that they "probably were not as a matter of fact, working with any degree of regularity or continuity. . . . The work of these children doubtless varied from a few weeks or months each year to regular employment throughout the year. In fact, 88 per cent of these children worked on farms of their parents—at home."

It may be fairly concluded, as the states prohibit children working under the ages of 14, in factories and so forth, that those stated above as engaged in non-agricultural pursuits were between the ages of 14 and 15 and not under 14.

Of these 413,549 minors working in gainful occupations other than on farms, 11.6 per cent worked as messengers, office boys and girls; 10.1 per cent, as servants and waiters; 7.3 per cent, as salesmen and saleswomen in stores; 54 per cent, as store clerks; 5.3 per cent, as cotton-mill operatives; 5 per cent, as newsboys; 3.1 per cent, as iron and steel operatives; 2.8 per cent, as clothing-industry operatives; 2.6 per cent, as lumber and furniture operatives; 2.4 per cent, as

silk-mill operatives; 1.8 per cent, as shoe-factory operatives; 1.7 per cent, as woolen-mill operatives; 1.4 per cent, as coal-mine operatives; and 39.3 per cent, in all occupations not enumerated.

It further appears that of the 413,549 children between 10 and 15 years engaged in non-agricultural pursuits, 364,444 of such children were 14 to 15 years of age, leaving 49,105 between 10 and 13 years of age or below the standard age. . . .

Neither the necessity nor the desirability exists today for a national child labor law. The people of the states are equally humane. They can be relied on in any State to force proper legislation, if needed, for the protection of their children. The legislatures of each State can better understand local conditions and legislate for the betterment of the children of their State than Congress or any bureau it may establish at Washington, composed of self-styled child welfare workers, who will undertake to impose their theories, rules, and regulations upon the State and its people.

The states in the past decade have manifested and now are manifesting intelligent concern, capacity, and willingness to protect children engaged at work and, as theirs is the responsibility, they should not be harassed by the interference of national laws and regulations. Even if this were not true, this proposed amendment to the Constitution is not conceived in the purpose to enable Congress to provide laws to protect children from working at unsafe, injurious, or detrimental occupations, as against employers of child labor, but it is a scheme to control by their labor all persons under the age of 18, whether working on farm, in workshop, factory, or in other employment, with or without compensation, and subject them to the direction of executive officials at Washington whom Congress, if the amendment is adopted, will have to intrust with the power to enforce rules "to limit, regulate, and prohibit the labor of persons under 18 years of age."

The amendment carries a remarkable, a dangerous, and extensive grant of power, and all grants of power, the Supreme Court of the United States has held, imply the power to do all incidental and necessary things to execute the direct power granted. In fact, the United States Constitution so provides.

WORK PROHIBITION

Under the power to *limit* the labor of persons under 18, Congress may declare such person, male or female, shall labor or shall not labor only certain hours a day; under the power to *regulate*, it may direct such person, male or female, to labor at this or that occupation, with or without compensation and without regard for his or her preference for the work; under the power to *prohibit*, it can prohibit such person, male or female, working at his or her chosen work, or at any work at all; and it may impose fines and penalties for violation of the law it

may enact, under this amendment, if adopted, and for violations of regulations prescribed by the executive bureau created to enforce the law passed.

It may pass an act in general terms, in the exercise of this constitutional power, if granted, creating an executive branch or bureau to administer the general provisions of the act and conferring upon the head of such department the power to make rules and regulations to govern the labor of such persons, which will have the same effect as the statute and subject to fine or imprisonment persons violating the regulations so prescribed.

The amendment does not confer the power to prescribe the *conditions* of the factory, farm, mine, office, store, railroad, warehouse, or workshop, at which the person under 18 may or may not work, so as to provide protection for him against unsanitary or dangerous situations, when necessity obliges him to work, or the *employment* of such person, but the power operates to limit, regulate, or prohibit the *labor* itself of such person. There is an obvious difference between the power to regulate conditions of factory or mine, at which "such person" may work, or his employment, and the power to *limit, regulate,* and *prohibit* his labor itself.

As far as "such person" by this amendment is concerned, the factory, or mine, or other place of work, may remain unsanitary, dangerous, and revolting, and, while such person might be prohibited from working at such places, because of the conditions, if he does work there, however prompted by the necessity of self-support, such person would be liable for violating the law, but not the proprietor of the factory.

There is no grant of power to regulate the employment or conditions of the place where a person under 18 may work. Evidently the proponents of this measure were not after controllling the operators of the workshop, so as to guard and protect the children there working, but after controlling the person of all those under 18 by limiting, regulating, or prohibiting their labor on farm, in home, in school or college, mine, workshop, or factory, and thus to direct his energies, mental and physical, during the formative period of his life, and indirectly to minimize the guidance, control, and influence of parents and home environment. The power is there, whether Congress exercises it or not, and there is no limit to it. It is all inclusive.

Under this amendment, if adopted, Congress by direct act or department regulations, which it permits by provisions of such act, may make it possible that the boy or girl, however robust, capable, and ambitious to work or however necessary it may be that he or she should work to help aged parents, dependent little brothers or sisters, will be prohibited from working at all or their labor regulated as to occupation or compensation, without regard to his or her choice, or to the extent to which they may utilize their energies. To do this, the power is there, without restriction, and lodged in Congress.

DESTROYING INITIATIVE

The boy, starting out to make a living and to work his way in the world, as thousands upon thousands of successful men have done at ages under 18, may not consult parents and be guided by their advice, but will have to ascertain the Government regulations, limitations, and prohibitions, as to what he may or may not do in the way of labor.

Nor will the boy or girl of well-to-do or wealthy parents be exempt from the application of the act, and its executive regulations, for the term *labor* is all inclusive, whether the labor be voluntary or compelled by circumstances, with or without compensation, and there can be no discriminations made between rich and poor, but *all labor* of *all persons* under 18 is subject to regulation, limitation or prohibition. So reads the amendment. The power is there.

How many Franklins, Lincolns, Carnegies, Marconis would such a system of regulating, limiting, or prohibiting the labor of the boy of genius, ambition, or industry produce? It would destroy initiative.

The farmer, who has plowed and hoed himself into the ownership of a farm may not have the assistance of his boy in making or harvesting his crop and the good wife the help or coöperation of her daughter, until, if then, they consult the regulations prepared at Washington; and the mechanic, hard-working and fatherly, cannot allow his healthy boy of 15 to 18 to go out to work, though he may have had a common school education, nor the wife her daughter to assist in womanly and household duties without consulting some professional Government child welfare worker as to whether such labor be permitted by law!

There can be no such thing under this amendment as the home of little means, where father and mother, sons and daughters, unite their efforts to produce a common support, and in mutual interdependence find their love and affection deepened, without the invasion of Government effrontery, with its regulations, limitations, and prohibitions as to the labor of members under 18 years of age of that home.

The boy of 17 may not help to feed stock. The daughter of 16 may not be allowed to sweep or wash dishes. The little children may not attend their father to help in picking cotton, berries, gathering crops, or doing chores about the farm, and the hard-working laboring man or mechanic may not demand of his boy to assist him in his work, without looking up governmental prescribed regulations, lest he violate the law.

The discipline, sense of duty and responsibility, training to habits of industry, which come to boy and girl, in home, on the farm, in workshop, as the result of even hard work, whether that work is in helping parents, without direct payment or in some gainful occupation, is to be limited, regulated, perhaps prohibited by Congress, if this amendment is adopted; at least, the power is therein granted, and, if the power is granted, it is going to be exercised, in greater or

less degree, with endless trouble, annoyance, injustice, and no benefit, alike to communities, parents, and minors under 18 years of age.

THE COST OF FEDERAL BUREAURACY

Extract from "An Examination of the Proposed Twentieth Amendment to the Constitution of the United States," by James A. Emery. New York City, August, 1924.

The amendment would open many new pathways of appropriation. It would authorize an exercise of the taxing power commensurate with whatever executory legislation is from time to time adopted. The State power would recede and State legislation become inoperative as the Federal authority was exercised and enforced. The administration of Federal statutes would necessarily proceed through its own bureaus, officials and employees. The proponents of the amendment wisely refrain from even roughly surmising the cost of developing this new policy.

But we may safely conjecture the future from the past. Nothing is more certain than the expansion of Federal payrolls in response to new grants of power and new demands for its exercise. The accelerating growth of central government followed the Civil War. During the fifty years from 1871 to 1921, Federal civil employees grew from one for each 72 of the population to one for every 192.

"The cost of the Federal Government, exclusive of the amount paid out for the Army, Navy, pensions, and interest on the public debt, in 1871, was $62,777,666, averaging only $1.58 per capita. The cost of the Federal Government in 1921, excluding every item which might even remotely be claimed to be a war expense—not only, as before, the Military Establishment, pensions, interest on public debt, but also the disbursements for Federal railroad control, vocational education, and the emergency shipping fund—reached the discouraging total of $825,968,057, or $7.64 per capita—almost five times the per capita cost fifty years before. The population of the country had increased about two and a half times. The number of civil-service employees had increased over ten times, from 53,900 to 560,863. The total cost of the peace activities of the Government had increased more than fourteen times."—(Bentley Warren, March, 1924, *Atlantic Monthly.*)

The Federal civil service of 435,000 in 1913 climbed to 918,000 in 1918, fell to 548,500 in 1922, and is now estimated at 590,000.

Three independent Federal bureaus and commissions, which cost annually $820,000 in 1900, have grown to thirty-three, requiring for their present support substantially $550,000,000 per year. The Children's Bureau, the probable instrumentality of the power sought, with an initial appropriation of $25,640 in 1912, directed the expenditure of $1,551,040 in 1923 for activities which it has stimulated. On

the horizon hovers a Federal Department of Education seeking an initial appropriation of $100,000,000!

Today the President and both parties declare tax reduction the paramount issue. Are we likely to decrease the cost of government by enlarging its burdens, affording opportunity to multiply its civil servants, and duplicate State administration, while enormously expanding the irritating area of bureaucratic supervision to embrace a vast percentage of our population?

The American of the present, reflecting upon the probable operation of this proposed amendment, may find much that is suggestive in the complaint of our fathers against the King in the Declaration of Independence.

"He has erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out their substance."